

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Garage MaHaul Storage,
Petitioner-Appellant,

v.

Johnson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-52-0216
Parcel No. 1020380007

On September 17, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Garage MaHaul Storage, and the Respondent-Appellee, Johnson County Board of Review, jointly requested the appeal be considered without hearing. Garage MaHaul Storage is represented by Kyran J. Cook. The Board of Review designated Assistant Johnson County Attorney Andrew Chappell as its legal representative. Both parties submitted documentary evidence in addition to that in the certified record. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Garage MaHaul Storage (Garage MaHaul), owner of property located at 4181 Alyssa Court, Iowa City, Iowa, appeals from the Johnson County Board of Review decision reassessing its property. According to the property record card, the subject property consists of eight steel-utility, self-storage buildings ranging from 1495 square feet to 15,120 square feet. There are 500 square feet of office area. The buildings have a total of 71,175 square feet, including 9300 square feet of climate controlled area and 12,950 square feet of non-climate controlled property. The improvements include 27,910 square feet of asphalt paving and fencing. The buildings were constructed in phases between 2001 and 2006. They are in good condition and are situated on a 3.95 acre site. The real estate was classified as

commercial on the initial assessment of January 1, 2009, and valued at \$2,394,000, representing \$297,500 in land value and \$2,096,500 in improvement value.

Garage MaHaul protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). It claimed \$2,200,000 was the actual value and a fair assessment of the property. The Board of Review denied the protest stating, "The Board finds the assessed value of the property to be within a reasonable range of market value."

Garage MaHaul then appealed to this Board on the same ground. Its main assertion was the assessor used a capitalization rate that was too low. The certified record included Garage MaHaul's 2008 rent roll, profit and loss statement, a management report and a summary of self-storage comparable properties. The property is considered stabilized with competitive rents. It calculated a net operating income (NOI) of \$179,581 and an 8.5% cap rate. The NOI includes a deduction for estimated real estate taxes expense rather than the more common method of including it in the capitalization rate. Its estimation of value by its income method is \$2,112,723.

Garage MaHaul provided an exhibit comparing the assessed value of similar self-storage properties in the county ranging in size from 9510 square feet to 109,998 square feet of building area with assessed values ranging from \$14.86 to \$29.19 per square foot. These calculations are based on only building value and exclude the value of the land. The subject property has a total of 71,175 square feet of building area and is assessed at \$25.91 per square foot. These figures are unadjusted for differences in size, age, condition, location and other variables. We find this exhibit more applicable to an equity claim and not useful for Garage MaHaul's over-assessment claim.

Garage MaHaul also developed the cost approach to value the subject property at \$2,462,687 based on the actual costs of land and buildings. According to the property record card, the land was purchased in 2001. Garage MaHaul reports the project was constructed in phases between 2001 and

2006 with some “inefficiencies” in the process. The use of actual costs does not reflect a standard cost manual valuation and we are unable to determine whether these figures reflect market costs or have been adjusted for physical depreciation. Garage MaHaul also stated that cost overruns artificially inflated the cost approach value.

Garage MaHaul also submitted four sales of mini-storage properties ranging in size from 15,840 square feet to 91,739 square feet containing 83 units to 538 units. Three of the sales occurred in 2007, one of these in November 2007, and one occurred in 2008. Two properties were located in Davenport and two properties were located in Bettendorf. Sales prices ranged from \$25.70 to \$40.40 per square foot. Garage MaHaul’s sales approach yields a \$28.00 per square foot value for a total value of \$1,992,900. The subject property is assessed at \$33.64 per square feet. The sales approach information provided does not include any adjustments or reflect if adjustments were made for differences such as age, climate-controlled area, size, location, land-to-building ratio, and other attributes between the subject property and the sale properties. Therefore, although we consider the market approach, we cannot rely solely on the sales approach to determine whether the property is over-assessed.

Garage MaHaul also reported that overall rate of return extrapolated from these sales ranged from 9.48% to 10.24%.

According to an article in *Market Monitor* authored by Michael L. McCune, president of the Argus Self Storage Sales Network, in 2009 self-storage sales reflected capitalization rates of 9% to 10%. An undated document labeled SEC Information on Public Storage reports, “We issued our last series of preferred stock in July 2007 at a 7% coupon. Today our various preferred issuances trade at 9%-11% yield. PS (Public Storage) Business Parks’ preferred trade at 10%-12% yields.” The majority of data sources report national market, however they are consistent with Garage MaHaul’s evidence of overall rate of return from local sales data.

The Board of Review submitted limited data to support the assessment. It relies on the assessor's determination of value based on actual income and expenses using a capitalization rate of 7.5%, effective tax rate of 2.61%, and overall cap rate of 10.11%. The assessor extracted the cap rate from one 2008 mini-storage sale in North Liberty by taking the actual sale price and dividing it by the actual net operating income to reach an overall rate of 10.94%. The effective tax rate for the property of 3.44% was subtracted from the overall rate to arrive at the 7.5% capitalization rate. We find it hard to believe a reliable capitalization rate could be based on one sale. This Board was provided no other information about this sale, the supporting income-expense data, or the development of the related capitalization rates for review. In addition, no information was provided concerning whether this sale property was comparable to the subject property, nor was an explanation given to explain why a sales approach to value was not developed if the subject property and the sale property were comparable.

The main difference between the Board of Review's position and Garage MaHaul's position is the capitalization rates they each used. While there are limitations in the sources used by both parties, we find more support in the evidence for the rate used by Garage MaHaul.

Accordingly, we find the preponderance of the evidence supports a finding that Garage MaHaul is over-assessed as of January 1, 2009. Recognizing the limitations in the preferred sales approach and the cost approach, we give the most weight to the income approach. Although both Garage MaHaul's income approach and sales approach rendered slightly lower values, we find the best evidence supports the value of \$2,200,000 for the subject property requested by Garage MaHaul.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board 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 that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available or market value "cannot be readily established in that manner," "other factors" may be considered in arriving at market value. *Heritage Cablevision v. Board of Review of City of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990); Iowa Code § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The market data or comparable sales approach is to be used in determining the market value of property assessed under §441.21 unless the market value cannot be readily established in that manner. *Eagle Food Centers, Inc. v. Board of Review of the City of Davenport, Scott County Iowa*, 497 NW 2d 860, 863 (Iowa 1993); *Heritage Cablevision v. Board of Review*, 457 NW 2d 594, 597 (Iowa 1990).

Section 441.21 requires the sales approach be used whenever sales can readily determine market value. *Boekeloo v. Bd. of Review of City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In *Farmers Grain Dealers Ass'n v. Sather*, 267 N.W.2d 58 (Iowa 1978), the property owners provided an appraisal that included sales from outside the taxing jurisdiction. The Court said it is permissible to use comparable sales outside the taxing district when no comparable sales were available in the district. *Id* at 61. In this case, although the sales submitted by Garage MaHaul are outside the assessing jurisdiction, they could still be reliable indicators of value for the subject property. The four comparable sales are summarized below:

Comparable Location	Sale Price	Sale Date	Years Built	Units	Building SF	Price/SF
Davenport	\$825,000	2/8/2007	1980-1986	224	30,000	\$27.50
Bettendorf	\$2,675,000	8/31/2007	2002-2006	538	91,738	\$29.16
Bettendorf	\$637,300	11/2/2007	1995-1997	164	26,198	\$25.70
Davenport	\$640,000	1/31/2008	2003-2005	83	15,840	\$40.40
Subject			2001-2006	496	71,175	

We note because limited data was presented regarding these sales, this Board cannot determine whether any adjustments were made to the sales to determine the market value of Garage MaHaul's property. However, this concern is lessened by the use of reasonably comparable mini-storage properties with similar age, style and location in the Iowa City/Quad Cities region and the use of square-foot pricing. Excluding the outlier sale at \$40.40 per square foot, the median sale price was \$27.50 per square foot. The property with the most similar size and age sold for \$29.16 per square foot. Under this method, Garage MaHaul valued its property at \$28.00 per square foot.

The Board of Review did not offer any evidence to refute Garage MaHaul's market sales data. Nor did it provide any sales or cost data to support its assessment. In his memo, the Deputy Assessor reported the assessor relied exclusively on the income approach to valuation for this property and to value all mini-storage warehouses in the county. Where there is a lack of comparable sales, the assessor may use a replacement cost less depreciation or cost approach to determine market value.

Eagle Food Centers, Inc. v. Board of Review of the City of Davenport, Scott County Iowa, 497 NW 2d 860, 863 (Iowa 1993).

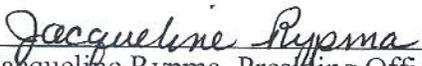
The statutory preference for evaluations based on comparable sales applies only to those situations where the value may be readily established by that method alone. *Cablevision Associates VI v. Fort Dodge, Iowa Bd. of Review*, 424 N.W.2d 212, 216 (Iowa 1988). In instances where the value cannot be established solely by comparable sales, there is nothing in the statute which requires comparable sales data to be weighted more heavily in the “other factors” approach than other relevant data approach than other relevant data. *Heritage Cablevision v. Board of Review*, 457 NW 2d 594, 597 (Iowa 1990). In considering an assessment appeal under section 441.39, the court is free to give no weight to proffered evidence of comparable sales which it finds not to be reflective of market value. *Id.* at 598. Accordingly, because of the limitations in the cost and sales approaches submitted, we rely on the income approach to value.

We, therefore, modify the Garage MaHaul property assessment as determined by the Board of Review. The Appeal Board determines the assessed value as of January 1, 2009, is \$2,200,000, representing \$297,500 in land value and \$1,902,500 in improvement value.

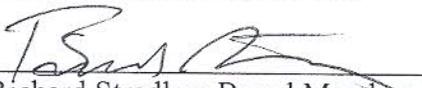
IT IS THEREFORE ORDERED that the January 1, 2009, assessment as determined by the Johnson County Board of Review is modified to \$2,200,000, representing \$297,500 in land value and \$1,902,500 in improvement value, as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Johnson County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 4 day of March 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

Copies to:

Kyran J. Cook
1580 Mall Drive
Iowa City, IA 52240
REPRESENTATIVE FOR APPELLANT

Andrew B. Chappell
Assistant Johnson County Attorney
417 South Clinton Street
P.O. Box 2450
Iowa City, IA 52244-2450
ATTORNEY FOR APPELLEE

Tom Slockett
Johnson County Auditor
913 S. Dubuque St., Suite 101
Iowa City, IA 52240
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-4</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	