

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**SKOG Development, LLP,**  
Petitioner-Appellant,

v.

**Johnson County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 10-52-0041**  
**Parcel No. 1006415001**

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On September 22, 2011, the above-captioned appeal came on for hearing 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. The Appellant, SKOG Development, LLP, was represented by Attorney Michael J. Pugh of Bradley & Riley, PC, Iowa City, Iowa. The Johnson County Board of Review was represented by Assistant County Attorney Andrew B. Chappell. The hearing was held in conjunction with Docket No. 09-52-0673 and Docket No. 09-52-0674. The Appeal Board now having examined the entire record, having heard the testimony, and being fully advised, finds:

*Findings of Fact*

SKOG Development, LLP (SKOG), owner of property located at 520 10th Avenue, Coralville, Iowa, appeals from the Johnson County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2010, assessment and valued at \$3,808,900. This was an increase from the 2009 assessment.<sup>1</sup> There is no land and structure breakout of the assessment.

SKOG protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). It asserted the fair market value was \$2,524,600. The Board of Review denied the protest and instead raised the assessment to \$4,544,863.

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<sup>1</sup> Although the V.A. tenant improvements add some value, an approximately \$1.2 million increase appears high.

The Board of Review notified SKOG that the assessment was changed stating, "The Board of Review finds that an error in assessment existed and corrects the error which results in the assessment being changed to the above value."

SKOG then appealed to this Board asserting the same ground, and it again requested an assessed value of \$2,524,600.

The property record card indicates the parcel contains a two-story office building with 25,248 square feet of finished area and 30,000 square feet of paving on 1.2486 acres. The building was built in 1996 and was in normal condition.

Ann Fletcher, an accountant for Charles Skaugstad, Jr. who is a partner in SKOG, testified on behalf of SKOG. Fletcher testified that SKOG believes the income approach is appropriate for the valuation of this commercial property, which is how the Johnson County Assessor initially assessed the property. Fletcher testified that SKOG did not protest the 2009 assessment because it was only a \$924,000 increase from the 2007/2008 value of \$1,599,700, which was set by this Board. This also seemed reasonable to SKOG since the new tenant – the V.A. Hospital – installed approximately \$800,000 worth of improvements during this time. Then in 2010, Johnson County Assessor William Greazel raised the value to \$3,808,900, which was an additional \$1,284,300 over the 2009 assessment. It is unclear why the value increased in 2010, but SKOG believes it was a second accounting of the V.A. Hospital tenant improvements.

SKOG submitted an income approach to value for the subject property (part of Exhibit 1). The income valuation, prepared by Fletcher, used actual rents, a vacancy factor of 30%, and an 8% capitalization rate. Fletcher used the 8% capitalization rate because this Board used that rate in its 2007 Order. The resulting value was \$2,356,220. Based on this figure, SKOG believes the 2010 property value should not have changed from the value of \$2,524,600 set in 2009.

SKOG also takes issue with the Board of Review using the 2010 assessment set by Greazel, which was based on the income approach, and then again adding back the \$800,000 of improvements. In SKOG's opinion, this method is incorrect and the Board of Review was blending the income and cost approaches resulting in double accounting for the improvement value. We note that both appraisers considered this to be an incorrect method.

SKOG was also concerned, because the Board of Review is supposed to be independent of the Assessor, that Greazel apparently approached a Board of Review member when SKOG was not present to defend its position. This is extremely inappropriate and unfair to the taxpayer. Greazel chose not to attend the hearing and his office was represented and allowed to speak. SKOG's petition memo clearly stated the V.A. made improvements of approximately \$800,000 and the Assessor's Office clearly read SKOG's petition memo and knew of the improvements during the hearing. Yet the Assessor's Office did not present his "error" at the board hearing. Instead, Greazel chose to discuss this issue with the Chairman outside of the established hearing, and suggest a hearing valuation, when it had no representation. Again, SKOG believes that this is unfair to the taxpayer, as no Assessor errors were acknowledged before, during, or subsequent to its hearing.

SKOG also submitted an appraisal report by Keith J. Westercamp, President of Appraisal Associates Company, Cedar Rapids, Iowa. Westercamp performed an appraisal review of an appraisal completed by Kyran J. "Casey" Cook of Cook Appraisal, L.L.C., Iowa City, Iowa. Cook's appraisal of the subject property for the January 1, 2010, assessment was done at the request of Greazel.

Cook's appraisal valued the subject property for January 1, 2010, at \$3,500,000. Cook completed all three approaches to value: cost, sales comparison, and income. Westercamp reviewed each of these approaches done by Cook. Overall, Westercamp believed the appraisal was thorough; however, he took issue with several items. Westercamp reached his own conclusions of value by relying on some of the information used by Cook and supplementing it with his own research.

First, Westercamp testified that the cost approach by Cook does not reflect the recession that has taken place the last few years and that the property's garden-level design is outdated. He also believes it fails to account for the property's long history of vacancy. Westercamp believes a buyer interested in purchasing the subject property would not use this approach. Ultimately, Westercamp gave no weight to the cost approach and testified that had he done a complete appraisal, he would not have even completed this approach because of the buildings age and due to the factors already noted. This Board notes the property record card has 54,258 square feet of land. On Cook's appraisal page 28 has 79,280 square feet. This could reduce the land value by as much as \$260,291.

Regarding the sales approach, Westercamp testified there have been very few comparable sales in the last few years. Westercamp also questions the time period of the sales and the fact that no adjustment was made for this. Westercamp testified the best sale used by Cook was Sale 5, which is in a better location. In his review, he noted the property does not have the garden level, and most importantly when the property sold in 2005, the market was near its peak and the building was fully leased. Westercamp would adjust down Sale 5 by 20%, to reflect location and time. The adjustment would reflect a value of \$110 per square foot. Westercamp also stated that improvements were made to the property that were necessary to get it leased. He believes the improvements set the value in the \$100 per-square-foot range, resulting in a 2009 value of \$2,600,000 without the improvements. The rounded value for 2010, including the improvements would be \$2,800,000

Westercamp also included four other improved sales that he located in Cedar Rapids, Coralville, and Iowa City. These sales occurred between 2005 and 2010. We note that Sales 2 and 3 appear to be by or two an exempt organization, which would potentially make them non-arm's length transactions. Ultimately, Westercamp did not adjust these sales and only determined a sales-price per square foot for them. His review notes his belief that these additional sales would appear to support a value in the \$2,800,000 range.

Finally, Westercamp also had concerns with Cook's income approach to value. Westercamp noted in his review that Cook did not address the fact that many of the leases would be up for renewal in the next few years. Westercamp's biggest concern with Cook's income approach was Cook's capitalization rate of 8.5%. Westercamp believes and submitted data that the capitalization rate should be 9.4%. Westercamp believes this rate is supported from consulting with brokers in the market, consulting national sources, including RealtyRates.com, and considering the data presented by Cook. Westercamp also performed a gross income estimate fee simple and determined that the income approach to value should be \$2,680,000 using a 9.4% capitalization rate, a higher/management leasing rate, \$13.50 per-square-foot market rent, and 10% vacancy.

After doing a total review of the Cook appraisal, Westercamp determined that Cook's approach would be the upper end range in value. In the current market, the upper end would be extremely difficult to obtain. He reiterated his belief that the cost approach is not considered a good approach for the subject property. Westercamp also believes the appraisal was not consistent regarding rental rates and vacancy in the income approach. He noted the current asking rent price for the subject property is below the lease comparables, which would indicate location or income obsolescence.

Westercamp's final reconciliation in his review appraisal is \$2,750,000, as of January 1, 2010. We find the evidence and testimony of Westercamp to be credible.

Both SKOG and the Board of Review submitted Cook's appraisal. Cook testified on behalf of the Board of Review.

Cook, as previously noted, valued the subject property at \$3,500,000 as of January 1, 2010, after completing all three approaches to value. He valued the subject property using the sales comparison approach at \$3,820,000; the cost approach at \$3,870,000; and the income approach at \$3,090,000.

Cook completed the cost approach to value. He relied on *Marshall Valuation Service* for cost information. He estimated the replacement cost of the improvements and depreciated the subject property based on age life depreciation and determined the land value from the market. Cook made no adjustment for possible over-improvements and economic condition.

Cook used five comparable sales in his sales comparison approach to value: three from Coralville and two from Iowa City. Sale 1 was partially vacant and the top floor of a two-story condominium development, which sold in November 2008. This sale was also to a church, which is possibly an exempt organization, and causes us to question whether the sale was arm's length despite Cook's statement in his appraisal that he believes it was. Sale 2 is a multi-tenant, 3-unit strip center, and the buyer purchased all three units, which occurred in January 2007. Sale 3 was of two main floor condominium units. The sale took place in August 2008. Sale 4 occurred in October 2008 and was of an entire building in the Grand Rail Subdivision. Sale 5 sold in January 2005. It is the Grandview Office Plaza consisting of 28,239 square feet and having a sprinkler system and underground parking. Cook adjusted these properties as explained in the appraisal. His net adjustments ranged from -3% to 25%. The appraisal notes that Cook found Sale 5 to be the most comparable to the subject; additionally, Sale 4 was also of an entire building. Cook testified that the market lacked good comparable sales for the subject property, but he used the best he could find.

Finally, in his income approach, Cook used market rents and market expenses. The leases Cook used were from four different buildings or projects in the Coralville and North Liberty market. The adjusted rents per square foot ranged from \$12.50 to \$16.70. He believed the lease comparables supported a market lease rate of \$13.30. Cook determined a Net Operating Income (NOI) of \$271,583 for the subject property. To determine a capitalization rate, Cook used the band of investment method to conclude a rate of 8.58% to 9.08%. He also used three sales in Coralville to extract the rate. The

sales produced rates of 8.93%, 9.3%, and 9.6%. He then used two other sales in the town of North Liberty and determined rates of 7.7% to 7.9%. We find North Liberty not a comparable location for the subject property because it is smaller than Coralville and further from Iowa City. Cook also made an adjustment for the effective tax rate. The assessed value Cook used was the Board of Review's assessed value of \$4,770,063 to make his effective tax calculation. The Board of Review conceded at hearing that this value is unsupported. Cook's final capitalization rate estimate was 8.80%.

The following chart summarizes the different conclusions of the two appraisers:

	Cost Approach	Sales Comparison Approach	Income Approach	Reconciled Value
Westercamp Review Appraisal	Found to be unreliable; did not do cost approach	\$2,800,000	\$2,680,000	\$2,750,000
Cook Appraisal	\$3,870,000	\$3,800,000	\$3,090,000	\$3,500,000

Gary Bilyeu, Deputy County Assessor, testified to Greazel's recalculated assessed value that was provided to Fletcher and the history of the assessment of the subject property. We give this testimony no weight since the Board of Review already acknowledged the value is unsupported and it considers Cook's value of \$3,500,000 to be correct.

This Board is well aware that the comparable sales approach is the preferred method to value property for assessment purposes. If no comparable sales exist, or sales alone cannot determine the market value of the property, one may turn to the use of other factors. *Compiano v. Bd. of Review of Polk County*, 771 N.W.2d 392, 398 (Iowa 2009). We find that Fletcher's, Westercamp's, and Cook's (in part) testimony indicate good, recent comparable sales for the subject property do not exist. Really, Cook's only good comparable sale was Sale 5, but that sale occurred in 2005, five years prior to the assessment date at issue. We also agree to some degree with Westercamp that the cost approach is questionable for the subject property. Enough doubt has been raised about the current recession and

underground parking to question if obsolescence does, in fact, exist and it would be hard to calculate. Considering these facts, we find the best and most reliable method of valuing the subject property as of the assessment date is the income approach.

We find all of the evidence shows the subject property is over assessed. Turning to the income approach as the best indicator of value, and examining the income approaches used by the two appraisers, we reject the capitalization rate used by Cook in his appraisal because his own data supports a higher rate of 9%. Using Cook's NOI of \$271,583, because it was based on market rents and expenses, and a 9% capitalization rate, we can conclude a value of \$3,017,589. However, using these figures, the value does not account for the difference in vacancy rates and other adjustments in the different income approaches, and we find Cook's figures to be reliable since he conducted a complete appraisal. Additionally, we round the value upward to \$3,020,000 to reflect small consideration for the other approaches.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). 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 determined 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).

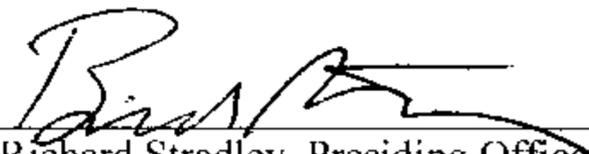
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*; *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 782 (Iowa 2009). The probable availability or unavailability of potential purchasers shall be considered in arriving at a market value. Iowa Code § 441.21(1)(b). If sales are not available, "other factors" may be considered in arriving at market value. *Id.* The assessed value of the property "shall be one hundred percent of its actual value." *Id.* at § 441.21(1)(a). There is a need to look at the "other factors" approach as there was insufficient evidence of comparable sales in the record.

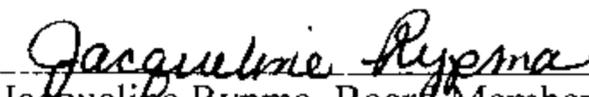
SKOG is claiming under Iowa Code section 441.37(1)(b) that the property is assessed for more than the value authorized by law. In an appeal that alleges the property is assessed for more than the value authorized by law, there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). As the finder of fact in the contested case hearings, it is PAAB's duty to determine if a property is comparable. *Soifer*, 759 N.W. 2d at 783. A preponderance of the evidence shows the subject property is over assessed. In fact, the Board of Review concedes there is no support for the current assessment. Further, the evidence supports a finding that the sales approach alone cannot determine the value of the subject property. The sales used by both appraisers have few similarities to the subject property. Turning to the income approach, Cook's income approach, adjusted for the capitalization rate of 9%, is the best evidence of fair market value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment of the SKOG property located in Coralville, Iowa, as determined by the Johnson County Board of Review is modified to \$3,020,000.

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 22 day of November 2011.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies 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>11-22-2011</u>	
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	