

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**1930 Brady LLC,**  
Petitioner-Appellant,

v.

**City of Davenport Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-103-0400**  
**Parcel No. B0057-13A**

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On May 2, 2013, 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) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Tom Elmendorf, a tax consultant, filed the appeal on behalf of 1930 Brady LLC, and represented it at hearing. City Attorney Tom Warner represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

1930 Brady LLC is the owner of property located at 1920 Brady Street, Davenport, Iowa. The real estate was classified commercial on the January 1, 2011, assessment. It was valued at \$896,600, representing \$275,400 in land value and \$621,200 in improvement value. 1930 Brady protested the assessment to the City of Davenport Board of Review on the grounds that 1) the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); 2) the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2), asserting the correct value was \$647,000; and 3) there was a downward change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op.*

*Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). The Board of Review denied the protest.

Tom Elmendorf then filed an appeal to this Board on behalf of 1930 Brady, essentially reasserting the single claim of over-assessment and at hearing asserted the correct value is \$735,000. We note 1930 Brady did not offer any evidence or testimony at hearing regarding an equity claim; therefore, we do not address the issue of inequity.

According to the property record card, the subject property is a one-story, multi-tenant retail strip-center built in 1961. It has 18,240 square feet of gross building area and four tenants which includes the owner occupied space. It also has 14,400 square-feet of asphalt paving; 700 square-feet of concrete paving; parking lot lighting, two canopies, a loading dock, and wood decking. The subject site is 0.861-acres.

1930 Brady's main argument is that the subject property is assessed for more than authorized by law. Elmendorf explained that Steve Kravetz, owner of 1930 Brady, purchased the property in May 2008 for \$938,500. However, he asserts Kravetz was under duress to buy the property because of a desire to maintain a similar location for business marketing purposes. Kravetz owns a check-cashing company, and he was leasing space very near the subject property when his lease expired. He was unable to renew the lease, needed to find a location to re-open his business, and did not want to have to deal with a business interruption again due to the loss of a lease. For these reasons, he decided to purchase the subject property. Elmendorf believes Kravetz overpaid for the property and does not believe the income generated supports the assessed value. Elmendorf did not provide any support for his opinion the subject property's correct value is \$735,000.

Kravetz testified he is not a real-estate investor. He came to Davenport in 1995 and opened his check-cashing business. He was in the same location for about 13 years, when he was notified his lease would not be renewed. He became a month-to-month tenant at that point. He felt it would have

been very detrimental to his business to move away from the area where he had an established customer base. He explained there were limited options available in the immediate area. The only property he found that was available within a few miles of his current location was the subject. He believes, based on hindsight, he purchased the property at the top of the market and over-paid for it.

Kravetz stated the property was an “empty-shell” when he made the purchase. He then updated the property’s plumbing, electrical service, carpet, bathrooms, windows, added bulletproof enclosures, security cameras, heating/cooling, and so on. The construction cost was more expensive than he anticipated. Kravetz also explained that while finding tenants was difficult, the building is now fully occupied. Regardless, he just does not believe an investor would pay the assessed value for the property, even when updated and fully occupied. Ultimately, however, Kravetz failed to offer any evidence of the subject property’s correct market value.

When questioned, Kravetz explained he was interested in the location of the subject property because it was closer to where he had originally located his business and there was “lots of traffic.” Additionally, he noted there were two tenants in the subject property at the time of purchase: Liberty Tax and Family Dollar. Both remain. The final tenant that moved into the subject property was Domino’s Pizza. Domino’s was previously located very nearby, but in a different building.

When asked, Kravetz noted that St. Ambrose College was located nearby, roughly three blocks from the subject property. Additionally, Palmer College is also located nearby. Given the proximity of college campuses, it would seem Domino’s is strategically located and a good tenant for the subject property.

The Board of Review did not provide any new evidence or offer any testimony.

### *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. This Board is an agency and the provisions of the Administrative Procedure Act apply. 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, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). 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 the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

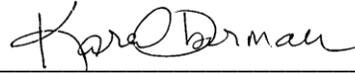
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Elmendorf asserted the property's market value was \$735,000, but offered no

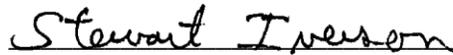
admissible evidence in support of his conclusion. Altogether, 1930 Brady LLC did not provide any evidence of the market value of the subject property. Therefore, we find it has failed to support its claim that the subject property is over assessed.

THE APPEAL BOARD ORDERS the assessment of 1930 Brady LLC's property located at 1920 Brady Street, Davenport, Iowa, of \$896,600 as of January 1, 2011, as set by the City of Davenport Board of Review is affirmed.

Dated this 24th day of May, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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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 May 24, 2013.

By:  U.S. Mail       FAX  
 Hand Delivered       Overnight Courier  
 Certified Mail       Other

  
Signature \_\_\_\_\_