

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John S. Wieland
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1081
Parcel No. 080/06501-011-000

On May 17, 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. Attorney Fredrick B. Anderson with Hudson, Mallaney, Shindler & Anderson, West Des Moines, Iowa represented John S. Wieland. Assistant County Attorney David Hibbard 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

John Wieland is the owner of property located at 1711 2nd Avenue, Des Moines, Iowa. The real estate was classified commercial on the January 1, 2011, assessment and valued at \$669,000, representing \$143,000 in land value and \$526,000 in improvement value. Wieland protested the assessment to the Polk County Board of Review on the ground that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2), asserting the correct value was \$540,000. The Board of Review denied the protest.

He then filed an appeal to this Board reasserting his claim.

According to the property record card, the subject property is a one-story, steel-frame warehouse built in 1954 and occupied by Iowa Machinery and Supply. It has 38,400 square feet

of gross building area, including 7540¹ square feet of finished office space. Additionally, there is 10,000 square feet of concrete paving; 480 lineal-feet of chain-link fence; and a 480 square-foot, unfinished mezzanine. The subject site is 1.951-acres.

Kevin Till, Controller of Iowa Machinery and Supply, testified on Wieland's behalf. Iowa Machinery and Supply is the tenant of the subject property. Till explained the property is located in the Central Business Park, an area situated in a flood zone and a high-crime area. The property was flooded in 1993 with a high watermark of three-and-a-half feet. Till believes the flooding caused structural damage to the property, which is on-going. He noted in 2004 the picture windows began cracking and required all of the front windows to be replaced. He believes the flood also caused the foundation to settle, which is what ultimately caused the windows to crack. He also noted the roof needs to be replaced in the next few years, and will cost an estimated \$120,000. Additionally, he noted Iowa Machinery and Supply pays \$1300 per year for flood insurance. While we find Till's testimony regarding the physical characteristics of the building informative, he offered no value opinion.

Rich DeHeer, with DeHeer and Associates, LLC, Newton, Iowa, completed an appraisal for John Wieland. The purpose of the appraisal was to estimate the market value of the subject property for "tax appeal use," but DeHeer based his opinion of value on the inspection date of the report, March 31, 2011, rather than the January 1, 2011, assessment date. Regardless, we find the sales DeHeer used in his report reflect the assessment date.

DeHeer developed only the sales comparison approach to value and concluded a final value opinion of \$540,000. DeHeer believes the location of the property in a flood plain affects its market value because it influences purchasing requirements and buyers' ability to borrow

¹ DeHeer's appraisal indicates 3875 square-feet of office space. In this case, we will rely on the property record card.

money. For instance, he stated a lender would require flood insurance and some lenders may also require a higher down payment. DeHeer also testified regarding the condition of the property, echoing much of what Till stated.

DeHeer relied on four comparable properties, all located in Des Moines, for his analysis. Two sales occurred in 2007; one in 2008; and one in 2009. The sales prices ranged from \$300,000 to \$850,000. After adjustments for differences in condition/quality, basement size, and site value, the properties indicated a value between roughly \$530,700 to \$556,800; or \$13.82 per-square-foot to \$14.50 per-square-foot. DeHeer reconciled this to \$14.00 per-square-foot or \$540,000. DeHeer explained he verified the sales using public records (property record cards) and exterior inspections. He had also physically inspected two of the properties (Comparables 1 and 4). According to DeHeer, Comparable 2, located at 2730 6th Avenue, was superior to the subject property based on his exterior only observations. He also noted Comparable 2 had newer windows and heating/cooling systems. For these reasons, DeHeer made a downward \$5.50 per square-foot adjustment to this sale.

Patrick Harmeyer, commercial appraiser in the Polk County Assessor's Office, testified on behalf of the Board of Review and commented on DeHeer's appraisal. First, Harmeyer noted DeHeer's Comparable 2 had extensive renovations and updates *after* its purchase for \$300,000. Harmeyer explained he knew this because the building permits were taken out after the purchase, and he had personally verified this information; additionally, he was in the property during the process of the remodel from when the owners had gutted it, all the way through to complete renovation. Knowing this, we find DeHeer's condition adjustment to Comparable 2 unreliable. Removing the condition adjustment results in an adjusted square-foot value of \$19.32 for Comparable 2.

Harmeyer was also critical of DeHeer's Comparables 1 and 4. He does not believe Comparable 1 is truly comparable to the subject property because it is not located in a flood zone and is not near downtown but rather in Saylor Township. He also identified that Comparable 4 was not an arm's-length transaction, as the sale was part of an internal reorganization. Essentially, the buyer and the seller of this property were the same, and the transfer occurred for corporate restructuring. He confirmed this with the owner of the property. For this reason, Harmeyer does not consider it comparable. We agree with Harmeyer's observation, this condition would not be reflective of a normal transaction.

Ultimately, we find the issues regarding DeHeer's choice of comparables, as Harmeyer highlighted in his testimony, result in flawed conclusions. For these reasons, we do not rely on DeHeer's opinion.

Harmeyer completed his own valuation analysis of the subject property. He used two of DeHeer's sales: Comparable 2 (2730 6th Avenue) and Comparable 3 (1665 East Madison). Harmeyer explained that 1665 East Madison was a landlord-to-tenant sale, however he determined the sales price was reflective of market value, and therefore, the sale was considered good for analysis. Like DeHeer, Harmeyer made adjustments for differences between the comparable properties and the subject property that resulted in an indicated value range between roughly \$621,300 to \$844,400; or \$16.18 per-square-foot to \$21.99 per-square-foot. The median price-per-square-foot of \$17.43 is how the assessed value of \$669,000 was determined to be reasonable.

Harmeyer relied solely on the sales comparison approach to determine the assessed value. He identified that while the record includes a cost approach generated by the assessor's office, he was not involved in that process, and he placed no reliance on this approach in the determination

of market value. The cost approach indicates a value of \$1,034,600. Harmeyer explained that a county-wide sales ratio study of warehouse properties indicated a reduction was necessary for this property type. As a result, in 2011, all warehouse properties in the county received a 6% reduction to their assessed values.

When questioned about the adjustments, Harmeyer explained he gets his information from the market to make adjustments. He explained, for instance, that he based his time adjustments on sales that have occurred over a period of several years to see if there is an increase or decrease in values. He then applied adjustments based on that analysis. He also explained that he did not make location adjustments specifically because of “crime” or flood zones. However, his Comparables 1 and 4 are both located in flood areas like the subject. Further, Comparables 1, 2, and 4 of his report are all located on similar busy corridors within a mile or two of each other in similar neighborhoods and Comparable 3 is located on an older industrial neighborhood that is also similar to the subject’s area. Because all the sales are in the same or similar areas, he believes any influences of crime or flooding are reflected by the market in the prices paid. We find Harmeyer’s research and verification of the comparable sales to be thorough, and we find his analysis to be the most persuasive evidence in determining the fair market value of the subject property.

Harmeyer also testified regarding the condition of the subject property. We do not find any dispute that the subject is located within a flood plain, or that it has some deferred maintenance and structural damage as result of past flooding.

Conclusions 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).

Wieland submitted an appraisal completed by Rich DeHeer. Based on the testimony, we find that several of DeHeer's comparable properties were not properly verified and result in either incorrect use of adjustments or in sales prices that do not reflect market value. As a result, we do not find DeHeer's conclusions reliable.

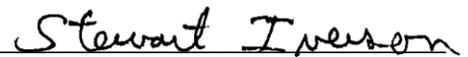
The Board of Review relied on a sales comparison analysis and testimony from Polk County appraiser Patrick Harmeyer. We find Harmeyer knowledgeable of the market area, familiar with the transactions, and that his analysis is the best evidence of the fair market value of the subject property. For these reasons, we find Wieland failed to support his claim that the subject property is over-assessed.

THE APPEAL BOARD ORDERS the assessment of John Wieland's property located at 1711 2nd Avenue, Des Moines, Iowa, of \$669,000 as of January 1, 2011, as set by the Polk County Board of Review is affirmed.

Dated this 3rd day of July, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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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 <u>July 3, 2013</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	_____