STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

JS Storage Solutions, LLC, Appellant, **v.** **Boone County Board of Review,** Appellee.	**ORDER** **Docket No. 13-08-0788** **Parcel No. 08-8428-34-14-00-007**

On October 25, 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) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant JS Storage Solutions, LLC was represented by Kyle Thurston, owner/member of the LLC. Appellee Boone County Board of Review was represented by County Attorney Daniel Kolacia. Both parties submitted evidence in support of their position in the appeal. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

JS Storage Solutions, LLC appeals from the Boone County Board of Review decision reassessing its property located in Amaqua Township, Boone County, Iowa. According to the property record card, the improvements consist of a steel-frame warehouse with 2640 square foot of gross building area built in 1950. It also includes 117 square feet of heated interior office finish. We note the property record card indicates the office is unheated on page 10, while it is listed and costs are calculated based on a heated office on page 3. Thurston testified it was unheated. The warehouse has an average quality construction grade (4-10) and is in normal condition. The property includes a 4200 square-foot metal, pole-frame warehouse built in 1981. The assessor applied a 30% discount for functional obsolescence and a 20% discount for economic obsolescence to these warehouses. The

property also includes a 3936 square-foot barn built in 1950 and a 1518 square-foot metal Quonset utility building built in 1975 with 50% functional obsolescence and 20% economic obsolescence. Additionally, there is a 3060 square-foot feeder with a concrete floor. The improvements are situated on a 0.98-acre site.

The real estate was classified as commercial on the initial assessment of January 1, 2013, and valued at $52,142, representing $9700 in land value and $42,442 in improvement value.

Storage Solutions protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) (formerly 441.37(1)(b)). It requested an assessed value of $35,500. The Board of Review denied the petition.

Storage Solutions appealed to this Board reasserting its claim and sought the same relief.

Kyle Thurston, owner/member of the LLC, appeared on behalf of Storage Solutions. He testified the property is used for seasonal camper and boat storage, and for storage of his personal property. Thurston stated the property was purchased in 2008 for $32,000 and at the time was assessed for $13,500. He asserts Storage Solutions' assessment increased by 63% since the 2011 assessment, while a Des Moines Register article reported commercial property values in Boone and Polk Counties have actually decreased by 3% annually over the past two years. Thurston reported that a representative from Vanguard, an appraisal company hired by the assessor, only performed a cursory inspection of the exterior of the property during last year's revaluation. No interior inspection was done.

Storage Solutions provided a profit/loss statement showing it operated at a $1963 loss in 2012. No other years' financials were provided. We note gross revenue in the statement was $3645, which was offset almost entirely by $3500 in repairs and maintenance expenses, and that real estate taxes were deducted as an expense item. For this reason, the net operating income in 2012 appears atypical and not representative of normal operating expenses. Thurston testified that normally he breaks even,

but 2012 included extraordinary expenses for improvements. An income approach to value was not developed and the information provided was not useful in establishing the subject property's market value.

Thurston reported the only recent improvements to the property were painting the front of the building and building an unheated, interior office space in the warehouse. He indicated that substantial repairs were completed in 2012. In past years, Thurston used approximately 20% of the storage area in the larger warehouse for his personal property; however, renters now use all the space during roughly eight months of the year. He conceded that friends and family also take advantage of the rental space. In total, he estimated he now uses fifty-percent of the property for his personal use and the remaining fifty-percent is rented as storage.

Based on his statements, Thurston is primarily concerned that the Board of Review did not supply more specific reasons for denying his assessment protest and he believes the Board of Review should provide evidence supporting its valuation of the property. He also questioned why the Board of Review would rely upon evidence he supplied in a 2011 protest to lower the assessment, but reject the same evidence in the current protest. He contends the 2008 purchase price established the subject's fair market value and the only change in the subject's value since that time was due to improvements he made to the property.

Assessor Paul Overton testified on behalf of the Board of Review. Overton discussed the assessment history of commercial property in Boone County that necessitated an equalization order in 2011. The equalization order issued by the Department of Revenue required the county be reassessed using an outside contractor for the 2013 assessment year. *See* Iowa Code § 441.50 (stating that "the conference board shall have power to employ appraisers . . . to assist in the valuation of property"). Overton clarified that the Vanguard representative who visited the subject property was a lister. As a

lister, he was primarily charged with verifying the existence of the structures, their condition, size, etc. and was not tasked with determining the property's value.

Overton testified he used the modified cost approach to value the subject property. Because of limited number of sales in the county, he stated it is difficult to find comparable sales to complete the comparable sales approach to value. He stated the value of the land is set using vacant land sales. Overton testified the cost of the improvements was determined using the *Iowa Real Property Appraisal Manual* and then depreciated using improved sales data.

At the request of this Board, the Board of Review provided the six properties used for the 2013 county-wide reevaluation. (Exhibits G-L). These warehouses ranged from 3600 square feet to 12,705 square feet and were located on properties between roughly 0.80 and three acres. The buildings were constructed between 1974 and 2012. The assessed value per-square-foot ranged from $17.32 to $62.21 per-square-foot. The two properties at the lowest end of the range had older buildings. (Exhibits I & K). The Board of Review also provided four rural properties classified and assessed as commercial property. (Exhibits M-P). Two of the properties were dissimilar from the subject property because one had numerous grain storage bins (Exhibit N) and another had a manufactured home on the site. (Exhibit P). The two remaining rural properties were built between 1955 and 2009. They are located on roughly one to four acres and are assessed $12.19 and $26.94 per square foot, respectively. (Exhibits M & O). The subject property is assessed at $7.62 per square foot without considering the square footage of the barn Quonset building or feeder on the site, which is well below the range of the compared properties. These comparisons do not support Storage Solutions' claim of over-assessment.

Assessor Paul Overton inspected the property with Thurston as a follow-up to the hearing. He reported his observations confirmed the listed information and did not indicate the need for any change in the assessment.

Ultimately, Storage Solutions did not present any persuasive evidence to support its claim of over-assessment or to support its value opinion.

Conclusion of 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, residential, commercial, and industrial 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)(a)(2). 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*. In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value.

Id. at 290. 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).

Storage Solutions did not provide sufficient evidence to support its claim of over-assessment as of January 1, 2013. Thurston stated his belief that the 2008 sale established the subject's fair market value. However, we find this sale is of only minimal relevance to a 2013 assessment and would not, by itself, conclusively establish the subject's market value based on Iowa case law. The record lacked any other evidence of the fair market value of the subject property, such as recent comparable sales, an appraisal, or another approach to value, such as income or cost. In contrast, the sales data provided by the Board of Review suggests the subject property's assessment is not excessive. As a result, we find Storage Solutions has failed to meet its burden of showing by a preponderance of the evidence that its property was assessed for more than authorized by law as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of JS Storage Solutions, LLC's property located in rural Boone County, Iowa of $52,142 is affirmed.

Dated this 3rd day of January, 2014.

Jacqueline Rypma

Jacqueline Rypma, Presiding Officer

Karen Oberman

Karen Oberman, Board Member

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