

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joseph Ven Horst
Appellant,

v.

Scott County Board of Review,
Appellee.

ORDER

Docket No. 13-82-1181
Parcel No. 84285110111

On May 6, 2014, the above-captioned appeal came on for a telephone 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 Joseph Ven Horst was self-represented. County Attorney Robert Cusack is legal counsel for the Board of Review. County Assessor Dale Denklauf represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Joseph Ven Horst appeals from the Scott County Board of Review decision reassessing his property located at 1737 Grant Street, Bettendorf, Iowa. The real estate was classified commercial on the initial assessment of January 1, 2013, and valued at \$128,590, representing \$33,750 in land value and \$94,840 in improvement value.

Ven Horst protested the assessment to the Board of Review. Although Ven Horst did not specifically list any of the grounds for protest under Iowa Code section 441.37 or make any statements suggesting a specific ground, it appears the Board of Review considered the protest on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the petition. Ven Horst then appealed to this Board.

According to the property record card, the improvements consist of a one-story, retail store with 2625 square-feet of gross building area built in 1949. The building is listed as average quality construction grade (4-10) and is in above-normal condition. The property is used as a screen printing business and has no floor finish in the rear 625 square-foot equipment area. The property record card notes no recent updates. The property is also improved by 2200 square-feet of asphalt paving and signage. There is a bank vault and a record vault-door listed on the record card, which have been given a 75% functional obsolescence adjustment. The improvements are situated on 0.172-acre site.

Ven Horst testified his property assessment increased by more than \$20,000 from the 2012 assessment. He believes the increase is excessive and the market value is closer to the 2012 assessed value of \$108,520. The property record card indicates the subject's assessment was set at \$108,520 in 2007 and remained at that value through 2012.

Ven Horst was not present when Vanguard Appraisal visited the property in advance of the 2013 revaluation. As a result, he was unable to show the appraiser deficiencies in the property. He was also unable to attend a meeting with Vanguard representatives, although he later spoke to Vanguard President Robert Ehler. He reports the property is in rough shape in areas, the roof line is sagging, windows need replacement, and it has the original 60-year old roof which has been patched over time. Ven Horst did not provide any evidence demonstrating the impact of these conditions on the property's value.

In Ven Horst's opinion, the reason the assessment is going up is to make up the difference in lost revenue resulting from the City of Bettendorf's removal of buildings and the reduced tax base. He also believes the increased assessments counter balances the recent business tax credit supported by the Governor. Ven Horst said he applied for the tax credit. We note that Senate File 295, signed by the Governor on June 12, 2013, also provides for a rollback in assessed values for commercial property.

The first application of the rollback will be to the calculation of property tax payments due in September 2014.

Ven Horst reports the City of Bettendorf denied his request for rezoning from C-2 to C-3 which would have allowed the property to be used as a tattoo parlor. He indicated he lost this prospective tenant because of the denial, which resulted in a one-year vacancy and loss of rental income. Ven Horst stated the City may have based the denial on retaliation because at the time he was fighting the City on the condemnation of his personal property. He believes the City surveyed other area property owners to generate opposition to his rezoning petition. We note that it is a common requirement to determine if nearby owners object to a rezoning change. We are mindful of Ven Horst's contentions; however, the Assessor, Board of Review, and Appeal Board are not involved in zoning decisions.

Assessor Dale Denklau testified on behalf of the Board of Review. According to Denklau, the increase in Ven Horst's assessment was the result of a reassessment process completed by Vanguard Appraisal. Vanguard's appraiser inspected the premises and was able view the condition of the property. According to Denklau, Vanguard scheduled an informal hearing with Ven Horst that was missed by Ven Horst and not rescheduled.

Denklau testified his office had arranged for Mark Cory, an appraiser, to complete an independent appraisal of the subject property as a result of the appeal. However, Ven Horst refused Cory entry to inspect the property and he was unable to complete the appraisal.

In response to Ven Horst's claim the City was reducing its tax base, Denklau explained the Department of Transportation was buying up properties and demolishing them for re-routing Middle Road for the major Interstate-74 bridge replacement project. He emphasized the City was not doing this on its own initiative.

Denklau surveyed retail sales in the downtown Bettendorf area and provided a summary.

(Exhibit B). The sales were not adjusted to account for differences between the Ven Horst property and the sale properties, which would have made this evidence more useful.

Address	Lot Size	Year Built	GBA	Date of Sale	Sale Price	SP/SF	Assessed	AV/SF
Subject	7500	1949	2625				\$128,590	\$48.99
425 28th St	14820	1933	2360	3/20/2013	\$137,000	\$58.05	\$143,880	\$60.97
2203 Grant St	13328	1977	3475	8/6/2010	\$200,000	\$57.55	\$189,210	\$54.45
2211 Grant St	25548	1959	5483	12/14/2012	\$230,000	\$41.95	\$278,480	\$50.79
1304 State St	8200	1966	3000	11/2/2012	\$134,000	\$44.67	\$121,390	\$40.46
1702 State St	7450	1909	5005	11/15/2012	\$158,866	\$31.74	\$143,350	\$28.64
4200 State St	17685	1971	1232	8/9/2013	\$210,000	\$170.45	\$117,340	\$95.24

Ven Horst’s property is assessed at \$48.99 per-square-foot, which is well within the range of unadjusted sales prices per-square-foot (\$31.74 - \$170.45). However, 2010 and 2013 sales were included in the summary and those sales may not provide the best indication of the subject’s market value as of January 1, 2013. Considering only the 2012 sales price range (\$31.74 - \$44.67), Ven Horst’s assessed value on a per-square-foot basis exceeds the upper end of the range.

Ultimately, Ven Horst did not present any evidence to support his claim of over-assessment or offer a value opinion supported with a comprehensive market analysis, appraisal, comparable sales, or other indication of the property’s value. However, Ven Horst’s testimony suggests the property’s “Above Normal” condition rating may not accurately reflect its actual condition. As a result, we recommend that Ven Horst contact the Assessor to arrange for an inspection of his property prior to the January 1, 2015, assessment.

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 Cnty. 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.*

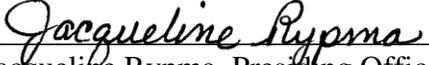
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Board of Review offered the only comparable sales evidence. Although the Board of Review did not adjust the sale prices to account for differences between the sale properties and the subject property, Ven Horst's property is assessed within the unadjusted sale price range and assessment range of other retail stores in downtown Bettendorf on a per-square-foot basis. Ultimately, Ven Horst did not offer any evidence of the subject property's value.

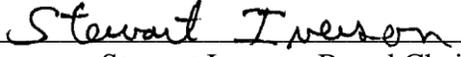
As a result, we find Ven Horst failed to meet his burden of showing by a preponderance of the evidence that his property was assessed for more than the value authorized by law as of January 1,

2013. As previously mentioned, however, we suggest Ven Horst contact the Assessor's office to arrange for an inspection of the property to verify its condition for the January 1, 2015, assessment.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of Ven Horst's property located at 1737 Grant Street, Bettendorf, Iowa, of \$128,590 is affirmed.

Dated this 23rd day of May, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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