STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jacobs Corporation, Appellant, **v.** **Shelby County Board of Review,** Appellee.	**ORDER** **Docket No. 13-83-0018** **Parcel No. 833406000008**

On June 2, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Lyle Ditmars of Peters Law Firm, Council Bluffs, Iowa, represented Appellant Jacobs Corporation. Attorney Brett Ryan of Watson and Ryan Council Bluffs, Iowa, represented the Shelby County Board of Review. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jacobs Corporation (Jacobs) is the owner of an industrially classified property located at 1000 Industrial Avenue, Harlan, Iowa. The subject property is a manufacturing facility built between 1972 and 2009. It has 69,260 square feet of building area, including some finished office area. The property also has 17,400 square-feet of paving, a metal shed, and a metal lean-to. The site is 3.98 acres.

Jacobs protested to the Board of Review regarding the 2013 assessment of $1,160,490, allocated as $79,800 in land value and $1,080,690 in improvement value. It claimed the assessment was not equitable compared to other like properties and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). It asserted the correct total value was $516,800. The Board of Review denied the claim.

Jacobs then appealed to this Board re-asserting its claims; however, the only evidence and testimony presented was regarding its claim of over-assessment. Therefore, this is the only claim we will address.

Jacobs submitted an appraisal completed by Nicholas Dizona of Real Property Appraisals, PC, Omaha, Nebraska. Dizona concluded a market value of $555,000, as of January 1, 2013, based solely on the sales comparison approach. He believes the cost approach was not applicable because of the age and design of the subject property and the income approach was not applicable because, in his opinion, it is unlikely someone would purchase this property for investment purposes. Dizona described the subject property as a building that has had "too many" additions with varying ceiling heights. Because of this, it is his opinion the property is not functional for a manufacturer. Despite his opinion, we note the property is currently used for manufacturing.

Dizona included five sales in his report but only considered four in his sales comparison analysis. Jacobs did not have Dizona testify about his report. Rather than explaining and supporting his opinion, Dizona spent the bulk of his testimony commenting on the appraisal submitted by the Board of Review. We further note, he provided only an oral critique and did not prepare a written review documenting his assertions.

The Board of Review questioned Dizona about his report and opinion of value for the subject property. When it asked Dizona about his Sale #1, previously owned by Jim's Meats in Harlan, Iowa, Dizona explained he included this sale in his report but did not adjust it in his sales comparison analysis. In his opinion, "it was the most comparable sale that occurred in the county." He acknowledged in his report and during his testimony that the sale of the property was a land sale because the purchasers razed the property immediately and redeveloped the site.

Shelby County Assessor Tony Buman testified for the Board of Review regarding this sale. He inspected the property shortly after the sale, and stated the prior owners had gutted it before the sale.

They pulled all the copper wiring and removed light fixtures along with any other valuable item. The property was in poor condition with ceilings falling in, walls gouged, and it was not functional to use at the time of sale. Buman stated the improvements were razed after it was purchased. Moreover, the Board of Review pointed out the sale of this property indicates a land value of $6.15 per-square-foot; whereas, Dizona concludes an "improved" value for the subject property of $8.00 per-square-foot. Given this immediate comparison, Dizona's conclusions for the improved property do not seem reasonable.

The Board of Review also questioned Dizona about Sale #2 located in Mason City, Iowa. Dizona testified the property had been on the market for three years and that the previous owner, J and J Welding, went out of business; however, he did not know how long the property had been vacant prior to its sale. Dizona's report indicates the property "had some deferred maintenance" and he testified the buyer told him the ceiling needed some repair, but he did not know the extent of the damage or the cost to cure. He did not make any condition adjustments to this sale, despite acknowledging the deferred maintenance.

Dizona noted that Sale #4, located in Eldora, Iowa, was a bankruptcy sale. He reported the sale price was $245,000, whereas the Board of Review indicated the Assessor's reports for this property indicate it actually sold for $250,000. Ultimately, we will not dwell on the differences of the sales prices that are minor overall. Although Dizona adjusted the sale 15% for its sale condition, we hesitate to rely on a bankruptcy sale when there are other normal sales in the record.

On page 49 of his report (Exhibit 5), Dizona states he gave all sales equal weight in the final analysis. When the Board of Review questioned him, however, he testified he considered Sale #2 and Sale #4 as the most comparable. Both of these properties were vacant for a period prior to their sales and were identified as having deferred maintenance. He asserts the deferred maintenance was typical for this type of property and no adjustments were necessary. He indicates on page 32 of his report the subject has "some" deferred maintenance, however does not describe what it is, the impact it may have had on value, or how the subject's deferred maintenance compared to the sales he analyzed.

After adjustment, the sales indicate a range from $5.36 to $11.61 per-square-foot with an average of $8.02 per-square-foot. Despite stating that "a value indicator near the upper range of this defined range is reasonable," Dizona concludes a value of $8.00 per-square-foot, slightly below the average. Considering this along with the aforementioned concerns with the sales upon which Dizona relies, we find his appraisal is not a reliable reflection of the subject property's market value.

The Board of Review submitted an appraisal by Russ Manternach of Commercial Appraisers of Iowa, Inc., West Des Moines, Iowa. Manternach's appraisal of the subject property has an effective date of January 1, 2013, and he concluded a final opinion of $940,000. Manternach developed all three approaches to value and his conclusions are in the following chart.

Manternach Appraisal Conclusions	
Sales Comparison	$940,000
Cost	$1,070,000
Income	$930,000

In Manternach's opinion, the three approaches should be completed when the data is available. It is his opinion that completing multiple approaches provides a test of reasonableness to the overall analysis. Further, he acknowledged some approaches might have less weight because of the data that may be available for analysis.

Manternach developed the cost approach; however, because the property "suffers from substantial amounts of accrued depreciation," (Exhibit E, p. 52) he gave it less consideration than the other two approaches in his final opinion. Jacobs questioned Manternach about the cost approach and the sources he relied on to develop the replacement costs. Manternach developed two cost calculations, one for the industrial portion of the subject improvements, and one for the office portion. During cross-examination, Manternach agreed an error had occurred in reporting the base square-foot cost of the industrial portion of the subject, based on his cost source, Marshall Valuation Services. The error, if corrected as Jacobs asserts it should be, would result in a conclusion by the cost approach of closer to $500,000. Despite this error, Manternach stated it would not affect his opinion because he gave limited consideration to the cost approach.

Manternach walked through his sales comparison approach, stating that Sale #1 had sold within a month of the effective date of value, was a very similar property to the subject, and it was also located in a small town like the subject property. Jacobs was critical of the use of this sale, asserting this property had an additional 10 acres that sold with the property, which was unaccounted for by Manternach. Manternach indicated he was unaware there was an additional 10 acres, but if that were true, it would result in roughly a 10% downward adjustment to this sale. He does not believe it would affect the results because this sale had the highest adjusted price-per-square-foot and was significantly higher than his reconciled value.

Manternach included four sales of manufacturing/industrial facilities, all built between 1997 and 2002. While all the sales were newer than the subject, he made a downward adjustment for this factor. The subject had sections built from 1972 to 2009. Manternach determined an average actual age of the subject as 1984, and this used this for comparison in the sales comparison analysis. He references page 29 of his report, which shows how he arrived at the average actual age. In his opinion, it would be wrong to adjust comparable properties based on the original year built date of 1972, when its average age is 1984. After adjusting his sales for differences, he reconciled to a value of $13.50 per-square-foot or $940,000 rounded.

Lastly, Manternach developed the income approach. On page 46 of his report, Manternach lists several leases. He explained he obtained the information from multiple sources, such as brokers, property owners, tenants, or previous appraisal assignments. He testified that he or his office confirmed all of the properties listed were leased as of the lease start date in the table. The unadjusted rents range from $1.65 to $4.12 per-square-foot. Manternach adjusted the leases for age/condition, quality, land to building ratio, percent finished space, percent heated, time of lease commencement, and other factors. While he did not show his adjustments, Manternach determined a range of $1.75 to $2.00 after taking into consideration the aforementioned factors. He reconciled to $1.80 per-square-foot for the subject property, which was at the low end of the range and below both the median and mean of the data set. Further, he testified that he selected the lower end of the range, in part, because of the subject's multiple additions. He ultimately concluded an opinion of value by the income approach of $930,000.

Jacobs criticized Manternach for developing the income approach, asserting there was insufficient data and market participants would not consider this approach. Manternach disagreed with this criticism. In his opinion, there were leases available for analysis, and he believes a typical purchaser or a bank would consider the income approach. He believes it is a typical approach developed and properties like this do lease. Further, when multiple approaches are developed it results in better overall analysis and reconciliation. When only one approach is developed, in his opinion, the conclusion is weakened.

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, 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. §441.21(1)(b). However, foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). 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).

Jacobs submitted the Dizona appraisal, which relied solely on the sales comparison approach to value. Dizona adjusted four sales, one of which was a sale resulting from bankruptcy. Although he adjusted the sale for market conditions, we are hesitant to rely on it given other normal sales in the record. Another sale Dizona considered suffered from unexplained amounts of deferred maintenance. The remaining sales, of which there was no serious critique, have adjusted sale prices above the $8.00 per-square-foot Dizona arrived at for the improved subject property. Dizona himself notes that the value indicator should be set near the upper end of the adjusted sale price range, but the $8.00 per-square-foot he used to come to his conclusion by the sales comparison approach falls slightly below the average. Based on the foregoing, we find Dizona's appraisal is not a reliable indicator of the subject property's fair market value as of the assessment date.

The Board of Review submitted an appraisal from Russ Manternach. Manternach developed all three approaches to value but his cost approach conclusion was found to be in error. Regardless of this error, Manternach did not give much, if any, consideration to this approach, and instead relied on the sales and income approaches to value. Both of those approaches had similar results and ultimately Manternach determined a January 1, 2013, market value of the subject property of $940,000. We find Manternach's value, based primarily on the sales comparison approach, to be the best evidence in the record of the fair market value and it indicates the subject property is over-assessed.

THE APPEAL BOARD ORDERS the assessment of the property located at 1000 Industrial Avenue, Harlan, Iowa, is modified to a total value of $940,000, as of January 1, 2013. The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Shelby County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 17th day of July, 2014.

Karen Oberman

Karen Oberman, Presiding Officer

Stewart Iverson

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