

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Lloyd Hinn, Jr.,**  
Appellant,

v.

**Pottawattamie County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-78-0296**  
**Parcel No. 7544-33-202-002**

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On November 25, 2014, the above-captioned appeal came on for consideration 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. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants represented JiyAmi Hospitality Group, Inc. and requested a written consideration. Assistant County Attorney Leanne A. Gifford is counsel for the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

***Findings of Fact***

Lloyd Hinn, Jr. protested on behalf of JiyAmi Hospitality Group, Inc., the owner of property located at 3537 W Broadway Street, Council Bluffs, Iowa. The real estate was classified commercial on the January 1, 2014, assessment and valued at \$1,800,000 representing \$190,210 in land value and \$1,609,790 in improvement value. According to the record, the property is operated as a Quality Inn. It is a two-story building, which was built in 1963 with an addition in 1988. The property has 47,137 square feet of gross building area and 89 rooms. It has typical hotel accoutrements such as paved parking area, yard lights, fencing, and signage, as well as an indoor pool. The site is 2.09 acres.

Hinn protested the assessment to the Pottawattamie County Board of Review on the ground that there has been a downward change in value since the last reassessment under Iowa Code sections 441.37(1)(a)(2) and 441.35(2). The Board of Review denied the protest.

Hinn then appealed to this Board. He requests a 2014 assessment of \$1,407,569. He asserts the property sold for \$1,810,000 in August 2008 and that since then the property has been assessed at about the same amount. He believes the current assessment includes \$392,431 worth of non-assessable, personal property.

Hinn submitted several documents to the Board of Review in support of a claim that there has been a change in value. He provided a Balance Sheet dated 12/31/2013 to show the book value of the subject property's furniture, fixtures, and equipment (FF&E). We note that the book value listed on a corporate balance sheet may be different from the market value of the personal property. Hinn subtracted the FF&E value from the assessment to arrive at his requested value. Hinn used the replacement cost new of the FF&E and failed to reduce its value by the accumulated depreciation ( $\$392,431.22 - \$249,394 = \$143,037$ ). Even assuming the January 1, 2014, value could be established in this manner, the January 1, 2013 fair market value of the subject property has not been established and both are necessary to show a change in value.

Additionally, Hinn submitted a list of commercial motel sales in Council Bluffs and Carter Lake, Iowa, which occurred from 1991 thru 2014. The list included six sales occurring from 2012 to early 2014. Sale prices ranged from \$1,760,000 to \$12,017,018. However, limited information was provided about these properties, and no adjustments were made for differences in size, location, age, condition, number of units, or amenities between the sale properties and the subject property. Because of these limitations, the sale information alone cannot be used to establish the January 1, 2013, or January 1, 2014, market value of the subject property and we give it no consideration.

The Board of Review did not offer any evidence.

### *Conclusions 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, 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 a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). In Iowa Code section 441.37(1)(a)(2) and its reference to section 441.35(2) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer

must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997).

The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

The evidence failed to show the January 1, 2013, and January 1, 2014, values and falls short of the proof necessary to establish the subject property suffered a downward change in value. We find a preponderance of the evidence does not prove there has been a change in the value of the subject property since the last reassessment.

THE APPEAL BOARD ORDERS the 2014 assessment of the property located at 3537 W Broadway Street, Council Bluffs, Iowa, is affirmed.

Dated this 26th day of December, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Member

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