

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-063-00589R

Parcel No. 060919-007-000

Francis G. Schiebout,

Appellant,

v.

Marion County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 9, 2015. Francis Schiebout was self-represented. Assistant Marion County Attorney Benjamin P. Hayek is counsel for the Marion County Board of Review. Assessor Drew Sanders represented it at hearing.

Schiebout is the owner of an unimproved residential site located in the English Creek Ridge Subdivision, Plat 1, Lot 3, Marion County. The site is 1.601 acres.

The property's January 1, 2015, assessment was \$1240.

Schiebout did not protest the 2015 assessment. His protest to the Board of Review asserts the 2009 to 2013 assessments should be retroactively modified to reflect a 2014 assessment settlement.

The Board of Review denied the petition asserting it did not have jurisdiction to consider prior year's assessments.

Schiebout reasserts his claim to this Board.

Findings of Fact

Schiebout appealed the subject property's assessment in 2014, and agreed to a settlement with Marion County, adjusting the fair market value to \$1240. In 2015,

Schiebout asserts the 2009 through 2013 assessments should be modified to reflect the 2014 assessment settlement.

The Board of Review asserts they have no jurisdiction to modify prior assessments.

Conclusions of Law

PAAB cannot take the action sought by Schiebout unless it has jurisdiction of the appeal. *MC Holdings, LLC v. Davis County Bd. of Review*, 830 N.W.2d 325, 329 (Iowa 2013) (citing *In re Melodie L.*, 591 N.W.2d 4, 7 (Iowa 1999)). PAAB does not have authority to hear a particular case when an appellant fails to comply with the statutory requirements. *Id.*

“Any property owner or aggrieved taxpayer who is dissatisfied with the owner’s or taxpayer’s assessment may file a protest against such assessment with the board of review on or after April 7, to and including May 5, *of the year of assessment.*” Iowa Code § 441.37(1) (emphasis added). In *James Black Dry Goods Co. v. Board of Review for City of Waterloo*, 151 N.W.2d 534 (Iowa 1967), the Iowa Supreme Court found that a protest filed in 1963 challenging an assessment entered in 1961 was not timely.

Here, Schiebout’s 2015 protest is essentially challenging the assessments entered from 2009 to 2013. Consistent with *James Black Dry Goods*, we find that Schiebout’s protest was not filed in the year of assessment and is not timely. Schiebout failed to exhaust his administrative remedies by not filing protests with the Board of Review challenging the 2009 to 2013 assessments. *Caudill v. Shelby County*, 519 N.W.2d 423, 424 (Iowa Ct. App 1994). Because we conclude we are without authority to consider Schiebout’s appeal, we cannot grant the remedy he seeks.

Order

IT IS THEREFORE ORDERED that the Marion County Board of Review’s action is affirmed.

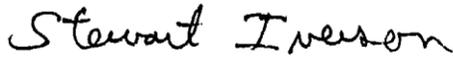
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

Francis G. Schiebout

Benjamin P. Hayek

Drew Sanders