

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

PAAB Docket No. 2015-103-00405R

Parcel No. J0035-09

Shirley J. Anderson,

Appellant,

v.

City of Davenport Board of Review,

Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on November 12, 2015. Shirley J. Anderson is self-represented and asked for her appeal be considered without hearing. Assistant City Attorney Chris Jackson is counsel for the City of Davenport Board of Review.

Anderson owns a residential, one-story dwelling located at 3015 Indian Road, Davenport. The subject property was constructed in 1950 and has 648 total square feet of living area and two concrete stoops. The dwelling is listed in normal condition and with average construction quality (Grade 4-10). The property does not have a basement or garage. It is situated on a 0.161-acre site with a 10% topography adjustment to the land value component of the property's assessment.

The property's January 1, 2015, assessment was \$42,630, allocated as \$12,130 in land value and \$30,500 to dwelling value. Anderson's protest to the Board of Review claimed there was an error in the assessment and that there was fraud in the assessment under Iowa Code sections 441.37(1)(a)(1)(d) and (e). The Board of Review denied the protest. Anderson then appealed to PAAB.

Her initial appeal to PAAB indicates she is seeking an assessed value of \$41,417, and states she is seeking relief in the form of "[c]orrection of assessment

record, reduction in land assessment, [and] reduction in total assessment.” However, in a brief filed October 13, 2015, Anderson specifically stated she was not protesting the assessed value of her property and she “does not challenge any monetary assessment value, only the information contained on the property record card.” Regardless of this apparent contradiction, we recognize the specific changes Anderson seeks would likely result in a reduction to her property’s assessment.

### **Findings of Fact**

Anderson asserted there is an error in the method or formula used to value her land, specifically in the application of the topography adjustment. She believes the adjustment should be increased from 10% to 23.33%. It appears Anderson calculates this adjustment by measuring the lot depth and the property line in relation to the center of the Blackhawk Creek at the rear of her property. Assessors are guided by the Department of Revenue’s IOWA REAL PROPERTY APPRAISAL MANUAL (2008) in determining adjustment factors, such as topography, shape, and size. According to the MANUAL, “There are no set rules other than experience and common sense in determining the amount of adjustment.” Contrary to Anderson’s calculations, the amount of the topography adjustment is not necessarily related to the lot size. Anderson’s calculations are based on an arbitrary and atypical method not prescribed by the MANUAL.

Anderson believes a 10% economic obsolescence adjustment applied to the dwelling value should also be applied to her land, as well. She considers it fraudulent that the adjustment was not applied to her land. The MANUAL explains the application of obsolescence adjustments to improvements. Assessors separately consider land, a non-wasting portion of the real estate, and the improvements, which are subject to various forms of depreciation. (MANUAL 2-2). Land does not depreciate or normally lose value due to age and elements. (*Id.* 2-12). The negative effect of any outside factors on land is not represented through the application of external or economic obsolescence, but is instead accounted for in the cost estimate of the site value initially. APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 633 (14th ed. 2013).

Improvements, however, are subject to physical depreciation, and obsolescence, both economic and functional. *Id.* The Residential Schedule Preface of the MANUAL explains:

Oftentimes, [however], physical depreciation alone cannot explain the difference between the replacement cost of a piece of property and its current market value. The value of certain properties may also be affected by a second type of depreciation: obsolescence. . .

Whereas physical depreciation represents a loss in value due to factors affecting the physical condition of a structure, obsolescence represents a loss in value due to other causes. Obsolescence itself can further be divided into two distinct types: (1) functional obsolescence, and (2) economic (external) obsolescence. . .

Whereas functional obsolescence pertains to a loss of value due to factors within the property itself, economic obsolescence is a loss in value caused by factors or circumstances outside the property limits . . . A property which is located in a declining or deteriorating neighborhood, may have the same physical value as a property located in a more desirable section of town, but have a lower market value because of the area in which it is located. Again, this difference or loss in value may be attributed to economic obsolescence of the property. . . (MANUAL 7-3)

A notation on the property record card indicates the entire area where Anderson's property is located was given a uniform 10% economic obsolescence adjustment. As the MANUAL explains, this adjustment indicates a loss in value due to factors outside Anderson's property limits common to the area.

Anderson claims an additional adjustment of 6.5% should be made for the shape of her lot. We assume Anderson made the markings on Exhibit C, which appears to show a shape adjustment to her land. Because frontage is not calculated on a diagonal line, the MANUAL (pp 2-8 to 2-13) prescribes a method to adjust irregular shaped lots before applying calculating effective front feet and its unit value. There was no evidence to show whether this adjustment was made to Anderson's land dimensions. Nonetheless, it is not done by a percentage adjustment as Anderson requests.

Anderson also accuses the Board of Review of fraud when it changed the depth of her lot from 145 feet to 140 feet in 2004 and believes it should have increased the

topography adjustment by 3.5% instead. The property record card indicates the lot size is 50 foot by 140 foot. It was then adjusted by a 0.98 depth factor to arrive at 49 effective-front-feet. (See MANUAL 2-6). A unit price of \$275 was applied to the effective-front-feet to calculate a total of \$13,475, which was then further reduced by a 10% topography adjustment to arrive at the \$12,130 site value. We find the Board of Review used the authorized methods and properly accounted for the depth and topography of the site. We reiterate that a topography adjustment is not necessarily based on the lot size.

Anderson reported she was informed the assessor used a valuation method referred to as the "Allocation Method." She claims she requested information explaining this methodology and did not receive an adequate reply from the Department of Revenue or the Assessor. (Exhibit 9). The allocation method is used to value land. It is based on the ratio of land value to the total property value. We again refer her to the MANUAL for further explanation and example. (MANUAL 2-3).

### **Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB 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 that 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. § 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).

An error claim under section 441.37(1)(a)(4) is not limited solely to clerical or mathematical errors. The plain language on which the taxpayer rests her claim allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(1)(d).

Anderson claims numerous errors in the assessment related to the amount of adjustments, lot dimensions and shape, and methodology. We have reviewed each of her allegations and find no errors.

In an appeal claiming fraud, the fraud must be specifically stated. 441.37(1)(a)(1)(e). Fraud is defined as, "A reckless misrepresentation made without justified belief in its truth to induce another person to act." *Black's Law Dictionary* (10th ed. 2014). Anderson claimed the failure to apply an economic obsolescence to her land value and the Board of Review's 2004 change of her lot depth constitute fraud. First, land is not subject to depreciation and economic obsolescence is applied to improvements only. *THE APPRAISAL OF REAL ESTATE* 633. While Anderson's land was not given an obsolescence adjustment, her improvements were adjusted in compliance with the *MANUAL*. Second, as an initial matter, it is altogether unclear what representations Anderson believes were made that resulted in fraud in her assessment. Further, there is no evidence in the record that the Board of Review's action in modifying the lot depth amounted to fraud. Accordingly, we find no fraud in the assessment.

Lastly, a common thread throughout Anderson's filings is her perceived non-responsiveness of the Assessor's Office to her requests for formulas and methods and a step-by-step calculation used in determining her assessment. Anderson has requested such information from the Assessor's Office, with caveats that all

communications must be in writing and no private meetings or phone calls. (Ex. 10). We understand that Anderson believes that providing the subject's property record card along with citations to the IOWA REAL PROPERTY APPRAISAL MANUAL is not a sufficient response to her request. We note the type of documents Anderson requests may not independently exist and would need to be created anew by the Assessor's Office.

PAAB provides a forum for taxpayers to protest their property assessments and has existed in this capacity since 2007. § 421.1A. Given this background, PAAB is attuned to the fact that assessments are more easily explained in a dialogue between the Assessor's Office and the affected taxpayer. A written, step-by-step calculation of an individual property's assessment is not easily created because of the number of factors used in setting the assessed value. Even if such a document were created, it may not be readily understood without the benefit of verbal dialogue and the ability of the Assessor's Office to describe the methodology. For these reasons, we suggest that Anderson arrange a meeting with the Assessor's Office to discuss her assessment.

Ultimately, Anderson's evidence failed to establish there was an error in the assessment or that there was fraud in the assessment.

### **Order**

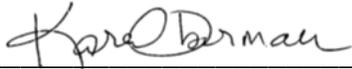
IT IS THEREFORE ORDERED that the City of Davenport Board of Review's action is affirmed.

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.

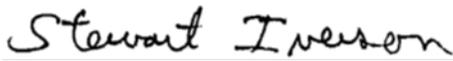
Dated this 9th day of December, 2015.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Shirley J. Anderson

Chris Jackson