

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

PAAB Docket No. 2015-027-00453C

Parcel No. 733101005

Levi Brasga,

Appellant,

v.

Decatur County Board of Review,

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 17, 2015. Levi Brasga was self-represented. County Attorney Lisa Hynden Jeanes represented the Decatur County Board of Review. Both parties participated by phone.

Brasga is the owner of a multi-residential, twenty-one unit apartment building located 102 S Main Street, Leon. The improvement is a three-story, all brick building built in 1920 and has 15,651 square feet of above grade building area and a full basement. It also has a 1440 square-foot detached garage built in 1986. The site is 0.40 acres.

The property's January 1, 2015, assessment was \$116,668, allocated as \$21,183 in land value and \$95,485 to improvement value. On his protest to the Board of Review, Brasga wrote in the area of the form reserved for a claim of error under Iowa Code section 441.37(1)(a)(1)(d). However, the claim essentially asserts the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Brasga then appealed to PAAB reasserting his claim.

## Findings of Fact

Brasga testified he purchased the property in October 2014 for \$40,000. He purchased the property from MetaBank, which obtained the property as the result of a foreclosure. He testified the property was on the market for over a year with an original list price of \$140,000, and reduced systematically prior to his offer and purchase. (Ex. 3). In his opinion, the assessment should be the price he paid for the property because he asserts the transaction was arm's-length and took place in a competitive market.

Brasga testified that when he purchased the property it had a 12% occupancy rate and asserted the property was in poor condition and in need of significant repair. To date, he estimates he has spent approximately \$105,000 in repairs and updates (Ex. 9) and will likely need to spend another \$100,000 to \$150,000 to complete the renovations of the entire property.

Brasga submitted income and expense reports for 2014 and 2015 that show negative net operating income for the property. (Exs. 1 and 2). However, he did not verify that the actual income and expenses represent the market. Further, he did not use this information to develop an income approach to value or an opinion of value. The 2015 Income and Expense statement indicates that as of January 1, 2015, Brasga had completed roughly \$13,500 worth of repairs. (Ex. 1). Moreover, he testified he had increased the rented units from three to eight, as of the 2015 assessment date.

Brasga also submitted a Zillow discount spreadsheet and three articles referencing foreclosed properties. (Exs. 4-7). The articles are general in nature and reflect analysis of foreclosed properties throughout the United States. We do not find them germane to the January 1, 2015 fair market value of the subject property.

Decatur County Assessor Justin Cornett testified for the Board of Review. Cornett explained that he had not inspected the subject property prior to the 2015 assessment. He also explained the assessment was based on the cost approach, using the Department of Revenue REAL PROPERTY APPRAISAL MANUAL. The cost analysis includes 35% physical depreciation and 80% obsolescence.

Brasga was critical of the Assessor's Office for not inspecting the interior of the subject property; however, we note it is not typical for the Assessor's Office to inspect

all properties in each assessment cycle. Further, it does not appear Brasga requested an interior inspection by the Assessor's Office at any time since he purchased the property or protested its assessment. Cornett noted that Brasga did not supply any information to the Board of Review other than his petition, which simply stated the property was in disrepair and that the \$40,000 sale price should be its assessed value.

Chair of the Board of Review Edward Coffey also testified. Coffey explained that Brasga did not request a hearing with the Board of Review. As part of the petition process, the Board of Review performed an exterior inspection of the subject property on May 13, 2015. He explained the Board of Review made notes regarding the tuck-pointing, windows, and sidewalks and thought the property looked "pretty good" for its age. We note there is no information in the record to determine if the exterior of the property had received updating after the assessment date but prior to the Board of Review exterior inspection. Coffey also testified that Brasga was not present at the property and did not send any representatives to allow the Board access for an interior inspection. Moreover, other than his statement on the petition that the property was in disrepair, Brasga did not submit any pictures or other written documentation to the Board of Review identifying the extent of the disrepair, a list of necessary repairs, or what updating had occurred to the property since he purchased it.

### **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. 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.* "Sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales." *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).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), 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).

While the purchase price of the property in a normal transaction may be an indication of market value, we do not find it alone is sufficient to conclusively determine the fair market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Brasga asserts the October 2014 sale price of \$40,000, is the fair market value of the subject property. However, he also concedes the property was purchased from a bank, which had obtained the title through foreclosure. We find the sale was abnormal and no adjustment was made to account for the distorting effect of the foreclosure status. For these reasons, we do not find the subject property's sale price is a reliable indicator of its market value for assessment purposes.

Brasga asserts the property was in disrepair; and since his purchase, he has spent over \$100,000 updating the property. In his opinion, it still needs roughly \$100,000 to \$150,000 worth of updates. However, he provided no pictures of the

subject property to support his opinion of the significant disrepair. As such, PAAB is unable to determine what the actual condition of the property was as of January 1, 2015, or how the condition may have impacted its market value. Brasga did not provide any evidence of the fair market value of the subject property such as an income approach to value, a sales comparison analysis or appraisal, or support for the significant deterioration of the property that he claims.

Based on the foregoing, we find Brasga failed to provide sufficient evidence of the market value of the subject property as of January 1, 2015. Given Brasga's testimony about the property's deteriorating condition, however, we recommend he permit an interior inspection of the property to allow for verification of his claims in advance of the next assessment cycle.

## Order

IT IS THEREFORE ORDERED the January 1, 2015, assessment of the subject property as set by the Board of Review 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.

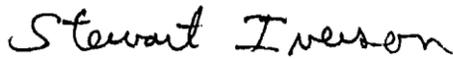
Dated this 2nd day of December, 2015.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

Levi Brasga

Lisa Hynden Jeanes