

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

PAAB Docket No. 2015-090-01158A

Parcel No. 1233540305000

Michael Sample,

Appellant,

v.

Wapello County Board of Review,

Appellee.

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**Introduction**

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on September 15, 2015. Michael Sample was self-represented. County Attorney Gary Oldenburger represented the Wapello County Board of Review.

Sample is the owner of an agricultural property located at 20589 Bluegrass Road, Ottumwa, Iowa. The subject property contains a one-and-a-half story dwelling with 1391 total square feet of living area, which was constructed in 1898. The dwelling is listed in poor condition and average construction quality (Grade 4). Located on the property are also a 384 square-foot detached garage; a 748 square-foot shop; a 1216 square-foot barn; and a 450 square-foot lean-to. Both the barn and lean-to receive an ag-factor adjustment. These improvements are listed as average construction and in normal condition. The site is 19.370 acres, which includes 5-acres of land in forest reserve.

The property's January 1, 2015, assessment was \$109,456, allocated as \$34,674 in land value, \$73,132 in dwelling value, and \$1650 in improvement value. Sample's protest claimed property had suffered downward change in value; however, in a reassessment year this claim is akin to a claim that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b). See

*Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review granted the protest and reduced the dwelling value to \$55,000 arrive at a total assessment of \$91,324. Sample then appealed to PAAB.

### **Findings of Fact**

Sample asserts the subject property's purchase price of \$85,100 in May 2015 is its fair market value. He further asserts that the land and dwelling were in a state of abandonment and disrepair for several years before he purchased it, and the dwelling is uninhabitable.

The record includes an Offer for Real Estate that shows Sample purchased the property from Federal Home Loan Mortgage Corporation (FHLMC), a government agency that guarantees loans. We note the property record card shows the property also transferred four months prior to Sample's purchase (January 2015) for \$119,404. Although unexplained, it appears the January 2015, transaction was likely a foreclosure action in which FHLMC gained control of the property. No other information regarding the circumstances of these sales was provided.

Sample did not provide any other evidence of the property's fair market value such as an appraisal, comparable sales, or comprehensive market analysis.

### **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 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).

In Iowa, property is to be valued at its actual value, which is its fair and reasonable market value. Iowa Code § 441.21(1)(a). Market value is the value established in an arm's-length sale of the property. § 441.21(1)(b)(1). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, sale prices of property in abnormal transaction not reflecting market value shall not be taken into account, or shall be adjusted for distorting factors. *Id.* Abnormal transactions include, but are not limited to, foreclosure or other forced sales. *Id.*

The fact that Sample purchased the property from a governmental agency draws into question the subject property's sales price as a market value transaction. Moreover, the property sold just four months prior to Sample's purchase for \$34,000 more than Sample's sales price. Because the subject property was by a government agency and likely a sale subsequent to foreclosure, we do not rely on the unadjusted sale price as evidence of its fair market value. No other evidence in the record supported Sample's claim that the subject property was over-assessed.

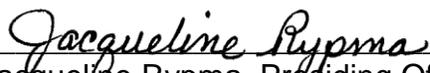
### **Order**

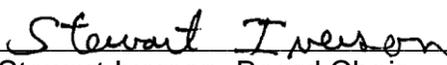
IT IS THEREFORE ORDERED that the Wapello County Board of Review's action is affirmed.

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.

Dated this 30th day of September 2015.

  
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Jacqueline Rypma, Presiding Officer

  
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Stewart Iverson, Board Chair

  
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Karen Oberman, Board Member

Copies to:

Michael Sample

Wapello County Board of Review