

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

PAAB Docket Nos. 2015-091-01173R and 2015-091-01174R

Parcel Nos. 48-120-29-0030 and 48-120-29-0031

Johansen Enterprises, LLC.

Appellant,

v.

Warren County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 14, 2015. Owner Gregory Johansen represented Johansen Enterprises, LLC, and he participated by phone. County Assessor Brian Arnold represents the Warren County Board of Review; it did not participate in the hearing.

Johansen Enterprises is the owner of residential properties located at 708 W 1st Avenue; a single site with two residential improvements. The site is 0.26 acres.

The following chart is a brief presentation of each parcel and the improvements.

Parcel	Style	Year Built	Gross Living Area (GLA)	Basement/ Finish	Amenities
48120290030	1.5 Sty	1941	1414	832/350 Avg	E Porch/Patio/Shed
48120290031	1 Sty/2 Fam	1945	1436	0/0	2 Att Gar

The following chart shows the January 1, 2015, assessments.

Parcel	Land	Improvements	Total
48120290030	N/A	\$52,500	\$52,500
48120290031	\$18,800	\$104,700	\$123,500

The site value is allocated solely to one parcel.

Johansen Enterprises asserts the properties are assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Johansen Enterprises then appealed to PAAB reasserting its claims. It believes the correct fair market value is \$152,500 for both parcels combined.

Findings of Fact

Johansen Enterprises purchased the subject properties in November 2014 for \$152,500 from Peoples Bank, which obtained them as the result of a foreclosure. In Johansen's opinion, the properties' combined assessments should be the total price paid for the properties.

Johansen Enterprises did not submit any other evidence of the fair market value of the properties, such as a cost analysis, an appraisal, or comparable properties adjusted for differences.

The Board of Review did not submit any evidence.

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).

Johansen Enterprises purchased the properties in November 2014, for \$152,500, and asserts this is the fair market value of the subject properties. However, it 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.

Johansen Enterprises did not provide any other evidence of the fair market value of the subject property, such as an income approach to value, a sales comparison analysis, or appraisal. Based on the foregoing, we find Johansen Enterprises failed to provide sufficient evidence of the market value of the subject property as of January 1, 2015, and has not established the property is assessed for more than authorized by law.

Order

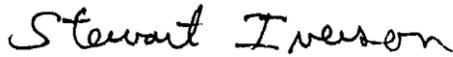
IT IS THEREFORE ORDERED the January 1, 2015, assessments of the subject properties as set by the Board of Review is affirmed.

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 7th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Greg Johansen, Johansen Enterprises, LLC

Brian Arnold