

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

PAAB Docket No. 2015-076-00660R

Parcel No. 06-36-478-001

Joseph S. Beck,  
Appellant,

v.

Pocahontas County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 9, 2015. Joseph Beck was self-represented. County Attorney Ann Beneke represented the Pocahontas County Board of Review. Both parties participated by phone.

Beck is the owner of a residential, one-story brick home located 705 3rd Avenue NW, Pocahontas. The home was built in 1963 and has 1764 square feet of above grade finish, a three-quarter, unfinished basement, a small deck and open porch, and a two-car attached garage. The site is 0.258 acres.

The property's January 1, 2015, assessment was \$132,534, allocated as \$4590 in land value and \$127,944 in improvement value. In his protest to the Board of Review, Beck asserted the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b).

The Board of Review denied the petition. Beck then appealed to PAAB.

The subject was recently purchased and Beck asserts the fair market value is the net purchase price of \$119,000.

## Findings of Fact

Beck purchased the property in February 2015 for \$122,500. He testified the property had been vacant for years and was in need of repair. In support of his claim, Beck submitted an affidavit that he has spent between \$10,000 and \$15,000 on repairs and updates he has had to complete since he purchased the property. (Ex. 1). He also submitted multiple receipts for additional support of his expenses. (Exs. 4-7, 9, 13). The receipts total roughly \$14,700. He also provided a written statement and testified that the front concrete porch and stairs had to be removed because they were sinking and had displaced the front door and the garage entrance door, as well as causing the brick to crack and pull away from the house. (Ex. 13). He has not had this repair completed yet but expects it to cost between \$4000 and \$5000.

Pocahontas County Assessor Sue Reigelsberger testified for the Board of Review. She explained that, in her opinion, some of the updates/repairs were typical on-going maintenance items that any property owner would incur and did not necessarily impact the market value. Additionally, she notes that some of the expenses are related to appliances, which are considered personal property and would not be included in the real property assessment valuation. Moreover, Reigelsberger testified that she contacted Beck to schedule an inspection of the subject property prior to the Board of Review hearing and the PAAB hearing; however, he declined.

Beck asserts the assessed value should be no more than the purchase price, citing Iowa Code section 441.21(1)(b)(1). He asserts the purchase price is the net proceeds to the seller after expenses, which he determined to be \$119,003. (Ex. 3). In coming to this figure, Beck deducted costs incidental to the purchase, including revenue stamps, legal fees, and pro-rated property taxes. We note that other than the sale price, Beck did not submit any evidence of the fair market value of the subject property, such as an appraisal, comparable properties adjusted for differences, or a cost analysis.

Reigelsberger testified that the property sold without the aid of a real estate broker and as such reflects something less than market value.

The Board of Review submitted seven sales that occurred in Pocahontas in 2014. (Ex. C). The sale prices ranged from \$105,000 to \$255,000; or \$66.04 to

\$117.22 per-square-foot, with a median of \$85.32 per-square-foot. The subject properties sales price per square foot is \$69.44.

Additionally, the Board of Review submitted a statement from Donna Hudson, a Real Estate Broker/Owner of Hudson Realty, Pocahontas. (Ex. H). Hudson states that at the request of the seller, Albert Nedved, she inspected the property in June 2014 to determine a fair market value. She recalls the property was dated with many original items such as windows and mechanicals, but it was a very well-built brick home. In her opinion, the fair list price of the property at that time would have been in the upper \$130,000 to lower \$140,000 range. She further noted the family elected to sell the home privately. Hudson did not provide any support or rationale for her value opinion such as a list of comparable sales or adjustments to those sales. As such, PAAB gives this opinion no consideration.

### **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). In this case, Beck has not shifted the burden; in order to prevail he must show his property is over assessed 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.* 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 under 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).

Beck argues the subject's fair market value is its purchase price and asserts the purchase price is equivalent to the seller's net proceeds. Beck submitted the sale of the subject property, which sold in February 2015 for \$122,500, minus costs, which resulted in a net proceed to the seller of roughly \$119,000. We find no support for making deductions for costs incidental to the property's purchase to arrive at the subject's purchase price.

Further, while the purchase price of the subject in a normal transaction is a matter to be considered in arriving at its market value; the purchase price does not necessarily and conclusively establish the market value. § 441.21(1)(b); *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Beck did not submit any comparable sales adjusted for differences, an appraisal, or any other determination of the fair market value, such as a cost analysis.

The Board of Review asserts that although the sale was reported as a normal, arms-length transaction, it sold below the suggested list price and without the aid of a real estate broker. As a result, it asserts the subject may have sold below market value.

Beck also asserts the property was in need of significant updating and repair, and submitted receipts in support of his position this affected the market value. In contrast, a local realtor who inspected the property in June 2014 recalled it needed updating, but that it was a well-built home. We note some of Beck's receipts were for items considered personal property and not valued as part of a real property

assessment. Moreover, we do not find receipts alone sufficient in determining the fair market value of the property.

Based on the foregoing, we find that Beck has not met his burden of establishing the property is over-assessed by a preponderance of the evidence.

### **Order**

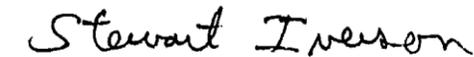
IT IS THEREFORE ORDERED the January 1, 2015, assessment of the subject property as set by the Board of Review is affirmed.

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 4th day of January, 2016.

  
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Karen Oberman, Presiding Officer

  
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Jacqueline Rypma, Board Member

  
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Stewart Iverson, Board Chair

Copies to:  
Joseph Beck  
Ann Beneke