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

PAAB Docket No. 2015-077-00809C

Parcel No. 080/05707-001-000

Mark C. Daggy,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 25, 2016. Mark C. Daggy was self-represented. Assistant County Attorney David Hibbard represented the Polk County Board of Review.

Daggy is the owner of a commercial property located at 1632 Ohio Street, Des Moines, Iowa. The subject property includes a one-story light industrial building with 6000 square feet of gross building area that was built in 1985. The building is listed in normal condition with average-quality construction (Grade 4+05). It also has 4800 square feet of paving built in 1985. The site is 0.336-acres.

The property's January 1, 2015, assessment is $132,000, allocated as $19,500 in land value and $112,500 in improvement value. Daggy's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review granted the protest and reduced the assessment to $119,000, allocated $19,500 to land value and $99,500 to improvement value. Daggy then appealed to PAAB. He asserts the property's correct value is $81,360.

Findings of Fact

In his appeal to PAAB, Daggy reports the Assessor's Office determined commercial properties were generally selling for 17.2% more than their assessments based on a countywide study. Because of this, commercial assessments were raised 17.2% throughout the county. Daggy asserts that because his warehouse property is located in the Central Place area, it is unfair to use sales trends from the entire county to increase his assessment. He describes Central Place as an area that is bordered by University Avenue to the south, 2nd Avenue to the West and the Des Moines River to the East. Daggy explained that the area was flooded in 1993 with nine to fourteen feet of water. Although the levee is nine feet higher now, he fears another flood is inevitable.

Daggy claims the sales used by the Assessor were located in high growth areas near the western suburbs and not from Central Place where is property is located. He believes commercial properties in the Central Place area are overassessed and actually selling for 72% less than their assessed values. Daggy looked at every sale that occurred in the Central Place and River Bend areas in northeast Des Moines over the past ten years and attempted to duplicate the county-wide sales ratio calculation used by the Assessor's Office. Sixteen sales occurred between 2010 and 2014. Daggy used the sale price of each; however, Daggy compared all of them to their 2014 assessments. His calculation resulted in roughly a 124% ratio. He believes this supports his request for a reduction in his assessment.

The Board of Review appraiser analysis considered six sales between 2010 and 2014. The sales were adjusted to account for differences in time of sale, age, finished area, detached structures, and other features resulting in a median adjusted price of $118,859, or $19.81 per square foot. The subject property is assessed at $19.83 per-square-foot.

Patrick Harmeyer, a commercial appraiser with the Assessor's Office, testified on behalf of the Board of Review. He testified that neither of the 2014 sales submitted by Daggy (66 & 67 Washington Avenue) were considered a normal transaction because only partial interests were conveyed. (Exhibits A & B). Harmeyer reported that the

2013 and 2014 sales identified by Daggy all had abnormal sale conditions and were not considered indicative of their fair market values, or used in the assessment/sales ratio analysis.

The only normal sales on Daggy's spreadsheet occurred in 2010 and 2012. (Exhibit A). Daggy did not adjust the sales for any differences. In Harmeyer's opinion, these dated sales are not to be used for an equity analysis or market value claim in 2015. He believed that comparing a 2010 sales price to a 2014 assessment artificially inflates the assessment/sales ratio.

The Board of Review also submitted 2015 sales of properties located in the subject's general vicinity. (Exhibits C-G). Daggy objected to these sales because they occurred after the assessment date and testified that some of these sales involved purchases on contract and sale lease-backs. Ultimately, these sales have no impact on our resolution of this appeal.

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*. Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors which distort market value. *Id*.

Daggy claims the subject's assessment is not equitable as compared to other like property in the taxing district. § 441.37(1)(a)(1)(a). To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). While Daggy complains the Assessor's Office methodology did not adequately consider location in setting the subject's assessment, the testimony indicated the methodology was uniformly applied to all warehouse properties in Polk County.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

> "(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id*. The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one

hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Daggy offered sixteen sales he considered comparable for an equity analysis. Other than the addresses, we are unable to determine whether they are comparable to the subject property. Moreover, the sales were either dated, or had abnormal sale conditions, making them unusable for an assessment/sales ratio. (Exhibit A). Further, Daggy offered no evidence of the subject's fair market value, such as an appraisal, comprehensive market analysis, or recent normal sales of comparable properties. Because there is no evidence of the subject's market value and no evidence of recent comparable sales, we were unable to develop an assessment/sales ratio for Daggy's property as required by *Maxwell* to complete the equity analysis. For these reasons, Daggy failed the show his property is inequitably assessed.

Daggy also asserts the subject property is overassessed. 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).

There was no evidence of the subject property's fair market value, such as an appraisal, comprehensive market analysis, or comparable sales. While Daggy offered evidence of warehouse sales, they were unadjusted to account for differences between them and the subject, and were either abnormal sales or dated sales. None were appropriate for use as comparable sales without adjustment. Considering the record as a whole, we find the evidence did not show Daggy's property is overassessed.

Order

IT IS THEREFORE ORDERED that the Polk 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 22nd day of March, 2016.

Jacqueline Rypma

Jacqueline Rypma, Presiding Officer

Karen Oberman

Karen Oberman, Board Member

Stewart Iverson

Stewart Iverson, Board Chair

Copies to:
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