

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

PAAB Docket No. 2015-007-00018R

Parcel No. 8813-08-178-004

Jen Dally,
Appellant,

vs.

Black Hawk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 1, 2016. Jen Dally was represented by her father, Douglas Dally. Black Hawk County Attorney Dave Mason represented the Polk Board of Review.

Jen Dally is the owner of a residential, two-story home located at 1628 Dakota Drive, Waterloo. It was built in 1992 and has 3440 square feet of above-grade finish. It also has a full, unfinished basement; porch; deck; and attached garage. The site is 0.478 acres.

The property's January 1, 2015, assessment was \$295,110, allocated as \$57,460 in land value, \$237,650 in improvement value. On her protest to the Board of Review, Dally wrote, "Private appraisal @ \$275,000," in the portion of the petition reserved for a claim that the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). However, Dally's statement is clearly a claim that the property is assessed for more than authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Dally then appealed to PAAB.

Findings of Fact

Douglas Dally testified the property was appraised in 2013, and the conclusion of value in that appraisal was \$275,000. He stated further that the property is in a poor condition, and it is a rental receiving \$1500 per month in rent. The siding, windows, and shingles are all in disrepair. The property is also under-developed for the neighborhood. Considering the house has continued to deteriorate since 2013, Dally believes it has clearly not appreciated, and that \$275,000 would be a fair assessed value. Dally did not submit the 2013 appraisal or any other market value evidence of the property.

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.* 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).

Dally testified regarding a 2013 appraisal of the property and the property’s current state of disrepair; however, no reliable evidence of the subject property’s current market value was submitted to support an over assessment claim.

Order

IT IS THEREFORE ORDERED that the Black Hawk 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.

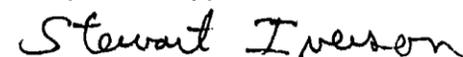
Dated this 8th day of June, 2016.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

CC:

Jen Dally
Dave Mason