

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

PAAB Docket No. 2015-103-00140M

Parcel No. C0045-01A

Fejervary Health Care Center I,
Appellant,

vs.

City of Davenport Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 8, 2016. Fejervary Health Care Center I was represented by tax consultant Guy McCollom, of McCollum Consulting, Fort Worth, Texas. Attorney Theodore Craig, of Dickinson, Mackaman, Tyler & Hagen, PC, Des Moines, represented the City of Davenport Board of Review.

Fejervary Health Care is the owner of a nursing home, known as St. Mary Healthcare and Rehabilitation Center, located at 750 E Rusholme Street, Davenport. It has a multi-residential classification. The improvements are on leased land. The improvements include the nursing home that was built in 1978, with 32,440 square feet of gross building area, as well as covered porches, a small patio, and an enclosed entry; a three-unit dwelling with 1942 square feet, which was built in 1980; 26,000 square feet of asphalt and concrete paving; a detached garage; and some fencing. (Ex. B).

The property's January 1, 2015, assessment was \$2,117,100. On its protest to the Board of Review, Fejervary Health Care Center asserted the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Fejervary Health Care then appealed to PAAB, reasserting its claim of overassessment. It believes the property's correct fair market value is \$1,475,000.

Findings of Fact

Guy McCollum testified on behalf of Fejervary Health Care. He explained the subject property was acquired by the parent company, Genesis, roughly two year ago through a stock sale. There was no price allocated to the acquisition, which included approximately 150 properties. McCollum notes that the seller went bankrupt. Genesis owns roughly 850 properties in 35 states, and has a wide assisted living portfolio. McCollum asserts this property was selected for review because it was not performing similar to other skilled nursing facilities that Genesis owns.

McCollum notes that in January 2013, the subject had a below-average rating (2 out of 5) from the Department of Health and Human Services. (Exs. 1 & 3). The below-average rating is based on health inspections, nursing home staffing, and quality measures. (Ex. 3). McCollum testified that this rating has nothing to do with the improvements, but rather the services.

Fejervary Health Care submitted several analyses in support of its claim: a cost analysis, income information, and a sales analysis.

The cost analysis indicates the subject has a depreciated cost of \$1,481,532. (Ex. 4). We note this analysis does not include any of the asphalt or concrete paving, or the ancillary structures such as the porches and patio area. Moreover, it is unclear how the 65.4% depreciation was determined.

Fejervary Health Care submitted its income, profit and loss statements, and occupancy reports for years 2012 through 2014. (Exs. 6-7). It used this information to develop an operating statement analysis (Ex. 5) and determined an opinion of value by the income approach of \$1,336,810 for 2015. We note the operating expenses reported vary from roughly \$51,000 to nearly \$600,000 between the 2013 to 2015 years. Moreover, there is no explanation or support for how the capitalization rate of 12.5% was determined, which was used to arrive at its opinion of value. Finally, there is no indication these figures were compared to the market.

Fejervary Health Care also submitted six properties that have sold, which it considered comparable to the subject property. (Ex. 8). The following is a summary of the sales.

Name/Location	Sale Price	Date of Sale	Gross Building Area (GBA)	# of Beds	SP/Bed	2015 Assessed Value	AV/GBA
Cedar Health/Charles City	\$2,151,000	2014	29,116	50	\$43,020	\$807,820	\$27.74
Crestview Manor/Webster City	\$2,079,088	2012	27,071	84	\$24,751	\$1,263,180	\$46.66
Tru Rehab/Grinnell	\$2,625,000	2014	23,456	75	\$35,000	\$1,132,530	\$48.28
Genesis Senior Living Center/Des Moines	\$2,843,800	2011	25,412	80	\$35,548	\$1,520,000	\$59.81
Mitchellville Nursing Home/Des Moines	\$1,569,000	2011	18,801	65	\$24,138	\$1,160,000	\$61.70
Carrington Place/Muscatine	\$7,570,000	2014	36,362	100	\$75,700	\$2,331,950	\$64.13

First, we note all of the sale prices and assessments reflect the value of underlying sites, whereas Fejervary Health Care's property is a building on leased land. Ultimately, we do not find it necessary to analyze the sales in depth, because they were not adjusted for differences, all of them included site values, and Fejervary Health Care did not rely on the sales prices, but rather the assessed values of the properties, in determining its opinion of market value. Fejervary took the average of the six properties assessed values per GBA (\$51.39) and applied this to its GBA (34,382) to determine a value of \$1,766,891. It then removed \$310,800, which is the assessed value of the leased land that the improvements are situated on, to arrive at an indicated value of \$1,456,091. It is not proper methodology to use the assessed value to determine the market value of a property.

Fejervary Health Care also submitted three other properties of skilled nursing facilities in Polk County that were appealed to PAAB and settled prior to hearing. None of these properties recently sold and are not relevant to a market value claim.

Joe Vargas, a commercial appraiser with the City of Davenport Assessor's Office, testified for the Board of Review. He explained that although the subject improvements were built in 1978, because of updates and general maintenance, it has an effective year built of 1986. He testified that he relied on the Iowa Department of

Revenue's 2008 REAL PROPERTY APPRAISAL MANUAL to develop the cost approach. (Ex. A).

Vargas also testified that although the income approach was developed, it was incomplete because it was based on only twenty beds and relied on incorrect income data. For these reasons, it was not given any 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). 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). Moreover, Iowa Code section 441.21 requires that the sales comparison approach to value be used to determine a property's fair market value unless its market value cannot be established under by that method of valuation. Only where the parties convince PAAB that comparable sales do not exist or cannot *readily* determine market value than other factors such as cost and income can be used. *Id.* at 398 (emphasis added) (citing *Soifer*, 759 N.W.2d at 782); *Carlton Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997); § 441.21(2). Fejervary Health Care submitted sales information; however, it was unadjusted and ultimately was not used by Fejervary Health Care to conclude an opinion of value for the subject property. Although, it also submitted a cost analysis and income information, it did not convince this board that the property's value could not reasonably be determined using the sales comparison approach. Even if it had, the cost and income information was incomplete, inaccurate, or unsupported. Moreover, the income information contained no analysis of the market.

For these reasons, we do not find Fejervary has submitted sufficient evidence its property is over assessed.

Order

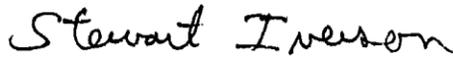
IT IS THEREFORE ORDERED that the City of Davenport Board of Review's action is affirmed.

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 24th day of June, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Guy McCollum

Theodore Craig