

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

PAAB Docket No. 2016-085-00222R

Parcel No. 10-26-300-440

Travis James Harrison,

Appellant,

v.

Story County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 18, 2016. Travis Harrison was self-represented. Assistant County Attorney Ethan Anderson represented the Story County Board of Review.

Harrison is the owner of a one-story, residential property located in Grant Township, locally known as 26835 605th Avenue, Nevada. Built in 2015, the dwelling has a slab foundation, 2941 square-feet of gross living area (GLA), a 3-car attached garage, and a patio. The site is 1.31 acres.

The property's January 1, 2016 assessment was \$351,500, allocated as \$73,600 in land value and \$277,900 to improvement value. Harrison's protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property; and that the property is assessed for more than the value authorized by law under sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition.

Harrison re-asserts only his claim of overassessment to PAAB and contends the subject property's correct assessment value is \$300,000. (Appeal to PAAB)

General Principles of Assessment 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).

Findings of Fact

Travis Harrison contends his newly built home and land is over assessed. Harrison explained he received the 1.31 acres of land from his parents when they split it off from a portion of their 40 acres and gifted it to him. He asserts that because his property abuts his parents' property and is on a gravel road, the value of his site is reduced. In his appeal to PAAB, he also points to the fact that a vacant 4.4 acres of land in Story County on a hard-surfaced road is only assessed at \$88,500. Based on these facts, Harrison believes his land value should only be \$50,000. (Ex. 1). First,

Harrison does not identify the property that he is comparing to the subject. Additionally, although the subject property abuts his parents' homestead, he acknowledged there is a mature tree line (windbreak) located between the two properties and he cannot see their home from his.

Harrison testified that he has built several homes in the past few years and believes he understands the cost of construction. He testified he was the general contractor for the construction of the subject property and provided roughly 15% of the labor. The record includes a cost summary for his property, totaling \$224,600. (Ex. G). However, the cost summary does not include any labor costs, land value, or entrepreneurial profit. Additionally, he argues his property is 20-30% less valuable because his home has a slab foundation. However, we find no evidence in the record to substantiate this assertion.

Harrison also testified his property is insured for \$250,000, which he believes supports his claim that his home is over assessed. However, his insurance declaration indicates a dwelling and dwelling extension insured for \$275,000. (Ex. G). This figure does not include the value of the land.

In addition to his testimony regarding the cost of the property, Harrison also submitted an appraisal and two comparable market analyses (CMA) to support his assertion the subject property is over assessed.

Harrison testified Mark Olsen, a local realtor, completed one of the CMAs. (Ex. 3). This CMA includes four sales and an active listing. The sale dates were not reported. All of the comparables are three-story homes built between 1996 and 2014. These sales prices for the properties ranged from \$291,000 to \$333,000, and the active listing is priced at \$339,900. Although the sales are unadjusted for differences, the CMA indicates a range of roughly \$284,000 to \$362,000, and an estimate of value for the subject property is reported between \$312,000 and \$318,000.

Babatunde Agbaje also prepared a CMA for Harrison. Agbaje included twelve closed sales and one pending sale in his analysis and adjusted them for some differences as compared to the subject property. The sales occurred between June 2014 and March 2016 and prices ranged from \$220,000 to \$333,000. After adjusting

the properties for differences in bath count, gross living area (GLA), and basement area, Agbaje’s conclusion of value for the subject property is between \$230,140 and \$335,530. He recommends a list price of roughly \$280,000. Although Agbaje applied adjustments to the sales, he did not explain the adjustments. Moreover, he only adjusted for particular features and did not adjust for differences in site size, garage size, style, age, basement finish, and outbuildings. For some of these unadjusted features, the sales differ significantly from the subject property. For example, some of the properties vary greatly in age. Additionally, Agbaje failed to comment on the condition of the sales he selected.

Harrison also submitted an appraisal by Ryan Hovek of Midwest Appraisals. (Ex. 2). The appraisal estimates a value of \$290,000 as of November 3, 2015.

Hovek concludes a value of \$311,400 by the cost approach. Because it is new construction, he did not apply any physical depreciation to the property. We note that Hovek does not include a value for the site improvements, which typically include utilities, driveways, and landscaping. Failing to include this in the cost analysis would result in an artificially low value conclusion.

Hovek’s sales comparison analysis considered four sales, which he adjusted for differences to arrive at his opinion of value of \$290,000. The following table summarizes the sales.

Address	Sale Price	Sale Date	Actual Age	Basement Area	Adjusted Sale Price
1 - 1238 Jasmine Pl, Ogden	\$300,000	Dec-14	10	Full/Finish	\$284,685
2 - 1350 Moingona Rd, Boone	\$365,000	May-15	8	Full/Finish	\$289,582
3 - 64932 295th St, Maxwell	\$257,300	Jun-15	1	Full/Minimal Finish	\$294,940
4 - 1141 231st Pl, Boone	\$220,000	May-14	24	None	\$290,393

Only Sale 3 is located near the subject property, while the remaining properties are more than twenty miles away near Boone and Ogden. Hovek states the sales “are located within good proximity to the subject” and indicates a “lack of more recent sales of dwellings similar in size, age, location, and condition/quality to the subject.” (Ex 2, Addendum). He suggests “[t]here are a very limited number of sales within the rural

areas of Iowa” and, as a result, it was necessary to expand the comparable search radius. (Ex 2, Addendum). Because of the other sales in the record, we question Hovek’s conclusion.

Despite the location differences, we find that overall the physical characteristics of Hovek’s selected sales are reasonably comparable to the subject. All of the sales are one-story homes like the subject. The sales have roughly 1625 to 3500 square-feet of finished area and Sale 4 lacks a basement area like the subject. Sale 1, 3, and 4 have similar site sizes to the subject and most are within ten years of age to the subject property.

Hovek adjusted the comparables for basement area as well as basement finish. He notes that “most homes in the area have basements which are typically finished in this price range.” It appears that he is making approximately a \$6.50 per square foot downward adjustment to the properties that possess a basement. He then makes an additional adjustment of \$15 per square foot for basement finish.

Assessor Wayne Schwickerath and Deputy Assessor Brent Balduf testified for the Story County Board of Review. Schwickerath provided a brief overview of the 2016 assessment.

Balduf testified that the assessment was based on the cost approach and described the general process. Addressing Harrison’s concern regarding the site value, Balduf stated that in 2015, there was a re-valuation of rural residential land and, at this time, land values for all rural locations in the County were determined. The Board of Review submitted three land sales and an active listing to support its assessed site value of \$73,600. (Ex. I-O). The following table summarizes the land sales/listing.

Address	Township	Sale Date	Sale Price	Gross Acres
1 - 28670 595th Ave	Union	Dec-12	\$90,000	4.27
2 - 25591 19th St	Nevada	May-13	\$90,000	2.76
3 - Timber Road	Washington	Jun-16	\$95,000	3.18
4 - 270th St	Grant	Listing	\$125,900	4.00

Balduf testified that the sales and listing are located on gravel roads like Harrison’s property. He noted the 2015 re-valuation of rural land considered both Sale 1, located just south of the subject property, and Sale 2. Sale 3 is located nearby in Washington Township and is a 2016 sale. Lastly, the listing in Grant Township is a split from a larger agricultural site, similar to the subject property.

The Board of Review also submitted 2015 sales of one-story properties located in Grant Township, which were considered by the Board of Review when it denied Harrison’s petition. (Ex. H). The following table is a summary of those sales.

Address	Sales Price	Sale Date	Gross Living Area (GLA)	Basement	Year Built	Site Size (Acres)
Subject	Not Applicable	Not Applicable	2856	Slab	2015	1.48
1 - 57160 Sand Hill Ln	\$310,000	Jan-15	1542	Full/Finished	1985	4.22
2 - 57508 270th St	\$337,500	Jul-15	2428	Partial/Finished	1961	5.80
3 - 25016 Sand Hill Tr	\$414,000	Jul-15	1515	Partial/Finished	1975	3.13

These sales all are proximate to the subject property (Ex. O) and located on a gravel road. Although unadjusted for differences, Balduf notes the properties are older and smaller but all sold for *more* than the values determined in Harrison’s appraisal and CMAs for subject property. We note the sales also have finished basements; but the total finished area of these sales (GLA plus finished basement) is roughly 2400 to 2900 square feet, compared to the subject’s total finished area of roughly 2900 square feet.

Balduf also notes that Sale 3 had previously sold in 2013 for \$372,500 before it sold in 2015 for \$414,000. He contacted the seller and discovered that only minimal cosmetic changes (interior paint) were made to the property between the two sale dates, which Balduf believes supports a conclusion that time adjustments should be made to sales that occurred prior to 2015, including Hovek’s Sales 1 and 4, which sold in 2014.

Balduf was critical of the CMAs and the appraisal because none used the three 2015 sales of one-story properties all located in the immediate area of the subject in Grant Township. (Ex. H). Likewise, he was critical of Hovek’s Sales 1, 2 and 4, located over 20 miles away from the subject property, in Boone County, contending that in all

probability these properties are in a different market. Balduf testified that Story County has one of the highest markets in the state. However, he was unable to provide a definitive answer of the potential value differences between the two counties.

Conclusions of Law

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). The Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956) (emphasis added).

Harrison offered two CMAs and an appraisal to support his assertion the subject property is over assessed. Although Harrison questioned the accuracy of his site value, ultimately our focus is on the subject's total assessment.

On the question of the subject property's correct fair market value, we give no weight to the CMAs. The Olsen CMA is incomplete (lacking sale dates), the comparables are unadjusted, and the conclusions are unexplained. The Agbaje CMA offers a multitude of sales that have adjustments; however, Agbaje made no adjustment for differences in significant elements of comparison such as site size, garage size, style, age, basement finish, and outbuildings. We also note that neither CMA included or referred to the three sales submitted by the Board of Review.

Regarding the Hovek appraisal, we conclude the physical characteristics of his selected sales are generally comparable to the subject property. However, we question Hovek's credibility because he did not include or reference the three recent, proximate sales submitted by the Board of Review. It is clear Hovek would not have even located the sale of 25016 Sand Hill Trail for \$414,000 because he capped his search to sales of properties no higher than \$385,000. However, we cannot begin to discern why Hovek failed to include, or at the very least address, the other two sales particularly when he

notes in his report that “[t]here are a very limited number of sales within the rural areas of Iowa.” (Ex. 2, addendum).

In addition, we similarly question Hovek’s failure to reference or consider some of the more proximately located properties included in the CMAs. In particular, 21095 620th Ave was included in both CMAs. That property sold for \$333,000 in October 2014 and we find it is substantially similar, if not slightly superior, to the subject. While this sale could potentially support Harrison’s claim, Hovek’s failure to acknowledge this sale and others, undermines the credibility of his conclusions. Because Hovek noted a lack of sales, but then failed to account for several recent sales in the subject’s vicinity, we conclude the appraisal is not a reasonable indicator of value for the subject property. Therefore, we decline to rely on Hovek’s conclusions.

Although we find insufficient, reliable evidence to conclude the subject is over assessed, we acknowledge that both Harrison and Hovek expressed the opinion that the subject’s lack of any basement has a negative influence on its market value. This is consistent with our own experience and expertise. We suggest the Assessor consider whether any obsolescence is applicable to the subject due to its lack of basement in the forthcoming assessment cycle.

For the other foregoing reasons, we find Harrison has failed to show the correct fair market value of the subject property and demonstrate the property is assessed for more than authorized by law.

Order

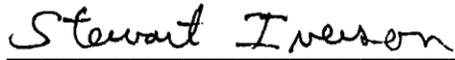
IT IS THEREFORE ORDERED that the Story County Board of Review’s action is affirmed.

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

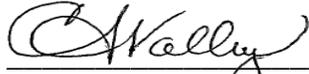
where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

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Story County Board of Review by Efile