

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

PAAB Docket No. 2015-077-00712R

Parcel No. 100/0695-000-000

Deborah liams,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 12, 2016. Deborah liams was self-represented. Assistant County Attorney Christina Gonzales represented the Polk County Board of Review.

liams is the owner of a residential property located at 3706 52nd Street, Des Moines. The subject property is a one-story dwelling that was built in 1946 as an army barracks but later moved to the site and upgraded resulting in its effective age of 1958. It has 720 total square feet of living area; an open porch; and a patio. It also has a 720 square-foot detached garage that was built in 1983. The dwelling is listed in normal condition with below-average construction quality (Grade 5-05). A 10% adjustment was made in prior assessments for functional obsolescence because of foundation and flooring cracks. The site is 0.161-acres.

The property's January 1, 2015, assessment was \$79,800, allocated as \$26,300 in land value and \$53,500 in dwelling value. On her protest to the Board of Review, liams claimed that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(b). The Board of Review denied the protest.

liams then appealed to PAAB.

Findings of Fact

liams testified her dwelling's location by Moore Elementary creates problems with parking and increases the traffic. She reported school drop-off starts as early as 6:30 am and parents drive on the sidewalks.

liams indicated there are numerous problems with her property; for example, the driveway is collapsing, the mortar on brick porch is deteriorating, there are plumbing/drain problems, the yard slopes creating water problems, and the street floods because the drains are undersized. She emphasized that the work done on her property is not to improve or upgrade it, but is merely necessary maintenance and repairs.

Further, liams believes that when a more expensive house on her block sells, all the assessments on her street are raised.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified on behalf of the Board of Review. Rasmussen reviewed prior years' protests and assessments to prepare for the hearing. Rasmussen reported the property had a 5% functional obsolescence adjustment, which was increased to 10% after an interior inspection in 2009. She testified the low quality rating was likely because the dwelling had been an army barrack moved to the site around 1946. Rasmussen explained that liams receives Disabled Veteran Homestead Property Tax Credit as an unemployable disabled veteran with a service-related disability. The current credit is equal to 100% of the actual tax levy. In effect, liams pays no property tax on the property.

Rasmussen identified sales of five comparable properties used by the Board of Review in its analysis of the liams' protest. The following chart is a summary of the comparable sale properties Rasmussen identified.

Address	Eff Yr Built	Grade	TLA	Basement	AV	Sale Price	SP/SF	Adj Sale Price
Subject	1958	5-05	720	None	\$ 79,800	N/A		N/A
3830 51st	1950	5+05	702	Yes	\$ 78,500	\$ 76,780	\$109.37	\$ 85,780
5218 Douglas	1950	4-10	774	Yes	\$ 94,600	\$ 87,500	\$113.05	\$ 75,200
5414 Ovid	1949	4-10	768	Yes	\$ 88,700	\$ 70,000	\$ 91.15	\$ 65,100
3807 50th	1970	4-05	891	Yes	\$ 99,100	\$ 97,000	\$108.87	\$ 83,500
3311 54th	1947	4-10	792	Yes	\$112,800	\$125,000	\$157.83	\$103,000

We note that liams' dwelling is the only one without a basement and has the lowest construction quality; however, her dwelling has a newer effective year built, and her garage is considerably larger (720 SF) than any of the comparable properties.

Rasmussen adjusted the sale prices to account for differences between them and the subject property. The indicated value for the subject property is \$83,500 based on this analysis. liams property is assessed less than the indicated value at \$79,800, or \$110.83 per-square-foot, which is at the low end of sales prices and adjusted sale prices.

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.*

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).

liams did not submit any evidence of her property's fair market value, such as an appraisal, comprehensive market analysis, or comparable sales. The adjusted sales prices of the Board of Review comparables do not support a claim of over-assessment.

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

This Board recommends the Board of Review arrange an interior inspection of the dwelling to document its condition and determine if any future adjustments to the next assessment are warranted.

Order

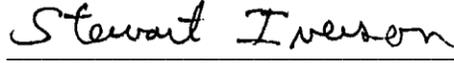
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

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.

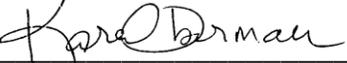
Dated this 8th day of June, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies

Deborah Iiams

Christina Gonzales