

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

PAAB Docket No. 2015-007-00022R

Parcel No. 8913-18-477-007

Logan Reid & Leslie Karen Wilson

Appellants,

v.

Black Hawk County Board of Review,

Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on October 26, 2015. Logan Reid and Leslie Karen Wilson are self-represented and requested their appeal be considered without hearing. Assistant County Attorney David Mason is counsel for the Black Hawk County Board of Review.

The Wilsons are the owners of a residential, one-story dwelling located at 2405 Sunset Boulevard, Cedar Falls. It was constructed in 1958 with an addition in 1996, and has 2796 total square feet of living area and a full-basement with 1400 square feet of living-quarters finish. The property also has a 624 square-foot attached garage and an 832 square-foot detached garage. The dwelling is listed in above-normal condition and with high quality construction quality (Grade 2-10). It is situated on a 0.924-acre site.

The property's January 1, 2015, assessment was \$328,030, allocated as \$48,910 in land value and \$279,120 in dwelling value. On the Wilsons' protest to the Board of Review, they marked, "See Attached," in the space reserved for a claim of downward change in value. The Wilsons' attachment discusses a structural defect in the property that resulted in litigation and a damages award of \$235,000. The Wilsons believe this structural defect results in an error in the assessment that significantly

affects the property's market value and asserted the subject property should be assessed at \$95,000. The Wilsons' claims amount to claims of over assessment and error under Iowa Code sections 441.37(1)(a)(1)(b) and (d). The Board of Review denied the protest. The Wilsons then appealed to PAAB.

Findings of Fact

The Wilsons purchased the property in 2010 for \$310,000. The Wilsons report that the detached garage was added to the parcel after its purchase at a cost of roughly \$20,000.

In February 2013, in the process of trying to resolve water issues in the basement, the Wilsons uncovered a severe structural defect with the dwelling's foundation. The foundation was supported by steel I-beams that had been covered and concealed by the previous owners and was not disclosed at the time of sale.

The Wilsons report the entire foundation is compromised because neither the foundation walls nor floor joists were attached to the sill plate. The foundation walls are now failing. At some point prior to their purchase, I-beams were also installed in an effort to correct this problem, but the beams were installed incorrectly. Additionally, due to years of water in the basement, the I-beams corroded, limiting their continued ability to support the walls.

Structural Engineer James Jacob of VG Engineering Engineers in Coralville and Construction Engineer Butch Hehe of Cedar Valley Engineering Company in Waverly inspected the basement and prepared reports, which were offered as evidence.

Jacob's conclusions support the Wilsons' statements. Jacob determined the steel I-beams were improperly installed, subsequently became severely corroded, and the fasteners used were inadequate. Despite the installation of the I-beams, severe structural distress continued, allowing openings for air infiltration and pest and varmint entry.

Hehe's conclusions echoed Jacob's. He also noted significant evidence of water leaking through the concrete masonry unit wall indicating there is no exterior foundation drainage system or it does not function.

Additionally, both engineers concur that the entire foundation needs to be completely replaced.

David Holien and Wayne Magee of Magee Construction Company, Cedar Falls, estimated the cost of replacing the original foundation at \$272,178.

Clinton Cota of Rally Appraisal, LLC, Cedar Falls, completed an appraisal in January 2014, and concluded a land value of \$75,000 at the time of the 2010 purchase considering the cost of the foundation replacement. Based on this estimate, the district court awarded the Wilsons \$235,000 in damages. The amount of the award was determined by subtracting the residual land value from the purchase price (\$310,000 minus \$75,000 = \$235,000).

In their letter to the Board of Review, the Wilsons stated they intended to complete the basement repairs in three to four years. They do not explain the reason for delaying the repairs.

The Board of Review reasoned that the assessed value should not be reduced because of the foundation damage since the property was still habitable

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. § 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). If the taxpayer alleges an error in the assessment, the taxpayer must state the error. § 441.37(1)(a)(1)(d). This ground is not limited to clerical or mathematical errors but includes other error claims. Iowa Admin. Code r. 701-71.20(4)(b)(4).

In *Boekeloo v. Bd. of Review of City of Clinton*, 529 N.W.2d 275 (Iowa 1995), the Iowa Supreme Court examined the impact of groundwater contamination on the assessment of a property. The court stated that "environmental contamination will have some adverse effect on the value of the contaminated property" and noted that Iowa law requires assessors to consider any factor that may affect market value. *Id.* at 278 (citing *Barlett & Co. Grain v. Bd. of Review*, 253 N.W.2d 86, 88 (Iowa 1997)). The court held that the assessor must consider the contamination of the groundwater under the property as a factor in its valuation. *Id.* Similarly, the subject property's structural defect, and the amount of necessary repair, requires consideration in determining the proper assessment.

That does not mean, however, that the structural defect renders the subject dwelling valueless. In *Boekeloo*, the property owners called two witnesses that testified that the property's market value was zero. *Id.* at 277-78. The court declined to apply a nominal value to the contaminated property because the record indicated the property

continued to be used for its intended purpose. *Id.* at 278. The Cota appraisal determined the subject property's value at \$75,000 and the court, subsequently, awarded damages of \$235,000 based on a diminution in value calculation. We note, however, that Cota did not assign any contributory value to the dwelling. While the dwelling has significant structural defects, it is habitable, continues to be used for its intended purpose, and has value.

Based on the foregoing, we find adequate support for our conclusion that the subject's basement currently contributes no value to the property, and to value it results in an error in the assessment. The basement's structural defect also negatively impacts the above-grade living area, but does not render that portion of the property valueless, as the Cota appraisal concludes. Accordingly, we find it reasonable to remove the value of the basement from the property's assessment using the IOWA DEPT. OF REVENUE, IOWA REAL PROPERTY APPRAISAL MANUAL 7-52, 7-65 (2008), as all of the calculations on the property record card (PRC) are derived directly from the MANUAL. To recognize the negative impact of the basement's structural defects on the remaining improvements, we find it reasonable to continue to apply the 25% obsolescence to the remaining improvements, except for the detached garage.

The tables below show the value of the property as a one story frame dwelling with no basement and 25% obsolescence applied to the dwelling improvements. These changes result in a new total assessment of \$268,380 (rounded).

Description from PRC	Previous	PAAB Value
1 Story Frame	\$134,040	\$111,210
Bsmt Fin - Living Qtrs.	\$30,100	\$0
[...] Other improvements listed & not changed	\$61,567	\$61,567
Building Sub Total	\$225,707	\$172,777
Grade Multiplier	1.39	1.39
Physical Depreciation	14%	14%
Functional Obsolescence	25%	25%
Depreciated Total	\$202,358	\$154,903

Description from PRC	Previous	PAAB Value
1 Story Frame Adtn (1 of 2)	\$47,268	\$38,057
Grade Multiplier	1.39	1.39
Physical Depreciation	14%	14%
Functional Obsolescence	25%	25%
Depreciated Total	\$42,378	\$34,120.00

Depreciated Improvement	New PAAB Totals
Building Sub Total	\$154,903
Fr Garage Addition	\$6,814
1 Story Frame Adtn (1 of 2)	\$34,120
1 Story Frame Adtn (2 of 2)	\$9,101
Garage Det Frame	\$14,530
Building Total Value	\$219,468
Land Value	\$48,910
Total 2015 Assessed Value	\$268,380 (rounded)

Order

IT IS THEREFORE ORDERED that the Black Hawk County Board of Review's assessment is modified to \$268,380.

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.

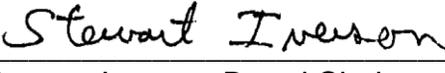
Dated this 15 day of January, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Logan Reid & Leslie Karen Wilson

David Mason

Grant Veeder, Auditor