

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

PAAB Docket Nos. 2015-082-01025M—01029M

Parcel Nos. 842201101, 842201102—E, 842201102—S, 842201201, 842201202

Chateau Knoll, LLC,

Appellant,

vs.

Scott County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 10, 2016. Attorney Richard Davidson represented Chateau Knoll, LLC. Assistant Scott County Attorney Robert Cusack represented the Board of Review.

Chateau Knoll owns five multi-residential parcels locally known as 2900 Middle Road, Bettendorf, Iowa. There are twenty-six apartment buildings, along with swimming pools, garages and other improvements located on the subject parcels' 22.77 acres of land. (Exs. A-E).

The January 1, 2015 total assessed value for all five subject parcels was set at \$19,612,440, allocated as \$1,134,000 in land value and \$18,478,440 in improvement value. *Id.* On its protest to the Scott County Board of Review, Chateau Knoll asserted its property was assessed for more than the value authorized by law, as provided under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition. Chateau Knoll then appealed to PAAB, reasserting its claim of overassessment and noting its correct assessed value to be determined from an appraisal.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2016). 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).

The burden of proof is upon the taxpayer; however, when the taxpayer “offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation.” Iowa Code § 441.21(3). To be competent evidence, “the testimony of the disinterested witnesses must comply with the statutory scheme for property valuation for tax assessment purposes.” *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 279 (Iowa 1995). Even if the burden of proof is not shifted, 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.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *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

The 26 apartment buildings that make up the 2900 Middle Road property were built in the early 1970s. (Exs. A-E). There are nine different styles of apartments with varying number of bedrooms, baths and square feet of living area.

Chateau Knoll purchased the apartment complex in 2007 for \$13,700,000, at which time it was in need of updating. (Ex. 1 p. 27). Since then 192 of the 396 units have been renovated at an estimated cost of \$10,000 per unit. (Ex. 1 p. 30) However, many of the remaining 204 units still have their original kitchens and are in need of a new heating/cooling system as well as a new patio door and windows. *Id.* New vinyl siding and new roofs were also installed on all the buildings shortly after Chateau Knoll took possession. (Exs. A-E). The table below provides additional details regarding the apartment buildings located on each of the five subject parcels.

Parcel Number	Acres	Assessed Land Value	Assessed Improvement Value	Total Assessed Value	# Apt Bldgs	Total Units	Gross Bldg Area
842201101	3.70	\$ 185,000	\$ 1,649,370	\$ 1,834,370	3	24	33,536
842201102--S	2.49	\$ 124,500	\$ 1,693,270	\$ 1,817,770	2	36	39,891
842201102--E	8.34	\$ 417,000	\$ 7,922,060	\$ 8,339,060	7	168	178,907
842201201	3.72	\$ 186,000	\$ 3,581,600	\$ 3,767,600	9	72	80,724
842201202	4.43	\$ 221,500	\$ 3,632,140	\$ 3,853,640	5	96	84,638
	22.68	\$1,134,000	\$18,478,440	\$19,612,440	26	396	417,696

As can be noted, the parcels have varying amounts of land as well as number of apartment buildings and units. Each parcel also has a unique shape with few if any 90-degree corners. (Exs. A-E). There are also 17 garages in the apartment complex, which accommodate a total of 111 vehicles. However some parcels have no garages while others have a large number of them. Some differences in the improvements and character amongst the parcels are described as follows.

Parcel 842201101

In addition to the three, two-story apartment buildings located on this parcel, there are two buildings referred to as Hampton Hall and Windsor Hall. Hampton Hall houses an office and maintenance. Windsor Hall, also known as the clubhouse, has a 1056 square foot fitness room with vaulted ceiling and a small business center. There is also a swimming pool and tennis court located on this site, but there are no garages. This parcel is the second to the smallest. It is also an odd shape parcel with narrow portions between opposing boundary lines in some areas and numerous angles in its perimeter.

Parcel 842201102—S

This is the smallest parcel with only 2.49 acres, only half the size of the largest parcel found within Chateau Knoll's apartment complex. There are two small garages in addition to the two 3-story apartment buildings located on this parcel.

Parcel 842201102—E

This is the largest parcel with 8.34 acres of land. Its seven 3-story apartment buildings contain almost half of the apartment complex's total 396 units. This parcel also has eleven garages of varying size as well as a swimming pool.

Parcel 842201201

This parcel contains no garages or other structures beyond the nine 2-story apartment buildings located on it.

Parcel 842201202

There are four garages of varying size located on this parcel in addition to the five 3-story apartment buildings located on it.

Richard Koestner, a residential appraiser with Koestner, McGivern & Associates, testified on behalf of Chateau Knoll regarding his appraisal and January 1, 2015 opinion of value for the 2900 Middle Road apartment complex. He noted the function of the appraisal was to determine market value for investment purposes. Koestner commented on the disrepair and deferred maintenance that plagued the development prior to Chateau Knoll taking possession in 2007. He noted about half of the units have since been renovated, but it is still difficult for it to compete with newer apartment

complexes in the area due to its outdated 1970s décor, appliances, and shag carpeting found in many of the remaining 204 apartments awaiting renovation.

Koestner valued the five parcels as a single operating unit, using the income approach and the sales comparison approach, opining a fee simple market value of \$17,900,000. This figure is approximately \$1.7 million lower than the \$19,612,440 total for the assessed values of all five parcels combined.

Tom McManus, Scott County Assessor, testified on behalf of the Board of Review. He testified regarding a number of issues he had with the Koestner appraisal. First, he pointed out the gross building area (GBA) was off by approximately 7000 square feet in the Koestner appraisal. Second, McManus notes Koestner failed to recognize the subject parcels' taxes are on a sliding decline, which when coupled with the multi-residential rollback that runs through 2022, should be of interest to any potential investor. We find McManus's concern with this somewhat misplaced because it relates to the interest of an investor. We note for ad valorem purposes, the taxes are typically excluded as expenses and loaded within the capitalization rate.

McManus was also critical of the appraisal not showing details for any adjustments used to account for differences in quality, condition and features between Chateau Knoll and the four comparable sales. We agree. McManus further asserts he believes the subject parcels are very attractive to tenants due to the numerous neighboring amenities which the comparables do not have.

McManus also questioned Koestner's comparable sales, contending neither a condominium nor cooperative is comparable with a 396 unit apartment complex. He argued the more adjustments needed, the less comparable the properties.

Lastly, McManus noted Koestner failed to include the income Chateau Knoll collects from monthly fees charged for additional parking spaces, laundry, and other income. Failing to account for this income would result in a lower value conclusion.

PAAB notes in Koestner's sales comparison approach that he relied on four sales of apartment complexes in Davenport and Eldridge that occurred between May 2013 and July 2015. The sales range from \$34,444 per unit to \$85,500 per unit. The properties all have fewer units than the subject, ranging from 36 units to 166 units. Koestner identifies differences in location and quality, but does not make any quantified

adjustments. Koestner indicates the best value indicator for the subject is the sale price per unit and concludes a value of \$45,000 per unit for the subject to arrive at his conclusions of \$17,800,000 using the sales comparison approach. Because he did not quantify any adjustments, PAAB is unable to determine the reasonableness of his analysis.

McManus testified he also developed an estimate of value for the apartment complex using the income approach, incorporating Koestner's income and expense figures into his calculations. (Ex. G). However, he factored in the average rollback and average tax levy, and then applied a 12.15% loaded capitalization rate, which is typical methodology in ad valorem valuation. He concluded an estimated value of \$19,720,395, which is higher than the subject parcels' total assessed value. McManus asserts his figure reflects the market value more realistically than Koestner's.

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).

Here Chateau Knoll seeks a reduction of the January 1, 2015 total assessment for the 2900 Middle Road apartment complex relying on the Koestner appraisal. When considering an over assessment claim, we look for competent evidence demonstrating the market value or actual value. Koestner opined the apartment complex's total market value to be \$17,900,000. PAAB finds the Koestner appraisal used comparable properties that are dramatically different and did not apply any quantified adjustments for PAAB to review for reasonableness. Moreover, the appraisal also inaccurately reflected the amount of GBA as well as failed to account for all sources of income.

We further find the Koestner appraisal was developed to determine a value for investment purposes, which may not reflect market value. While Koestner's opinion may serve those who are considering investing in the entire apartment complex, the record is void of any attempt to determine the market value of each of the respective parcels. This is how property is valued under Iowa law—as separately parceled and

freely alienable properties. Each of the subject parcels are unique in character, features and size as well as the degree to which renovation has taken place. Therefore it is not a matter of simply allocating one-fifth of the total value to each parcel. Each parcel within the apartment complex needs its own separate determination of value that considers these differences, unless or until such time as the five parcels are consolidated into a single parcel within the Scott County's property records.

Chateau Knoll may wish to contact the Auditor's office or have discussions with the Assessor's Office about the potential benefits, if any, from combining the five parcels into a single parcel.

For the reasons stated above, we find the record is insufficient to conclude the individual subject parcels' January 1, 2015 assessments are more than the value authorized by law.

Order

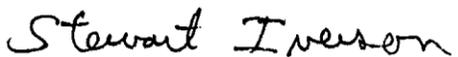
WE HEREBY AFFIRM the Scott County Board of Review's action upholding the subject parcels' January 1, 2015 assessed values.

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.



Camille Valley, Board Member



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Attorney Richard Davidson by eFile

Scott County Attorney Robert Cusack by eFile