

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

PAAB Docket No. 2016-007-00120R

Parcel No. 8813-08-178-004

Jen Dally,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 29, 2016. Jen Dally was self-represented and requested a written consideration of her appeal. Attorney David Mason represented the Board of Review.

Dally is the owner of a residential, two-story home located at 1628 Dakota Drive, Waterloo. Built in 1992, it has 3440 square feet of gross living area (GLA), an unfinished basement, an open porch, a deck, and a three-car attached garage. The site is 0.478 acres. (Ex. A).

The property's January 1, 2016 assessment was \$295,110, allocated as \$57,460 in land value and \$237,650 to improvement value. Dally's protest to the Board of Review claimed the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). This value did not change from the prior year's assessment; therefore, Dally was limited to a claim of change in value under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the petition.

Dally then appealed to PAAB.

Applicable 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.* 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).

"For even-numbered assessment years, when the property has not been reassessed," a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code § 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). "When this ground is relied upon, the protesting party shall show the

decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the previous assessment year.” *Id.*; see also *Equitable Life Ins. Co.*, 252 N.W.2d at 450 (holding for a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and the final valuation). The assessed value cannot be used to establish the beginning valuation. *Equitable Life Ins. Co.*, 252 N.W.2d at 450-51. Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

Findings of Fact

As background, Dally appealed the subject property’s 2015 assessment to PAAB (Docket 2015-007-00018R). In that case, Jen Dally’s father, Douglas Dally, testified the property was appraised in 2013, and the conclusion of value in that appraisal was \$275,000. An appraisal was not submitted in the 2015 appeal.

Jen Dally did not submit any evidence to PAAB for consideration of her 2016 appeal. However, in her petition to the Board and Review and in her appeal to PAAB she asserts she has an independent appraisal that concludes a market value of \$275,000 for the subject property. PAAB would be speculating whether the appraisal was the same 2013 appraisal referenced in her prior 2015 appeal, or if it is a new appraisal reflecting a 2016 market value conclusion. Without the appraisal, it is not possible for PAAB to determine the credibility or competency of the conclusion.

Analysis & Conclusions

Dally asserts she has an appraisal of the subject property, which indicates a market value of \$275,000. However, the appraisal was not submitted and PAAB is therefore unable to consider it in its decision.

Dally failed to establish the fair market value of the subject property as of January 1, 2015, or January 1, 2016. Both values are required in order to prevail in a

downward change in value claim. For these reasons, we find Dally has failed to support her claim.

Order

PAAB HEREBY AFFIRMS the Black Hawk County Board of Review's action.

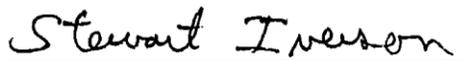
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015).

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

Copies to:

Jen Dally by eFile

David Mason by eFile