

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

PAAB Docket No. 2016-007-00129R

Parcel No. 8814-11-476-013

Philip Erisman,
Appellant,

vs.

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. Philip Erisman was self-represented and requested a written consideration of his appeal. Attorney David Mason represented the Board of Review.

Erisman is the owner of a residential, two-story home located at 4802 Green Belt Drive, Hudson. The property's January 1, 2016 assessment was \$326,640, allocated as \$66,450 in land value and \$260,190 to improvement value. This was a change in value from the previous assessment year. Erisman'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). The Board of Review denied the petition.

Erisman 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.* 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).

Findings of Fact

The subject property is located in a newly platted, rural subdivision consisting of residential acreages. The subject's improvements sit on a 1.29-acre site that was purchased in January 2015 for \$69,500. Subsequent to the site purchase, construction began on the improvements, which were not complete as of January 1, 2016 – the assessment date at issue in this appeal. As a result, the Assessor valued the property as sixty-five percent complete on the assessment date. The assessment was based on

the cost approach and the IOWA REAL PROPERTY APPRAISAL MANUAL (MANUAL). (Ex. A, B).

The improvements consist of a two-story frame dwelling with 3758 square feet of gross living area (GLA), a slab foundation, geothermal heating, and a three-car attached garage. (Ex. A).

Erisman contends his property is over assessed and its correct value is \$296,257, allocated as \$66,450 to land and \$229,807 to improvement value. (Appeal to PAAB). He bases this conclusion, in part, on an August 2015 appraisal completed by Clinton Cota, Rally Appraisal, LLC, Cedar Falls, indicating the subject's value as if it were complete is \$420,000. (Ex. 1). Erisman arrives at his opinion of the improvement value by deducting the land value assessment from \$420,000 and multiplying the difference by sixty-five percent. ($\$420,000 - \$66,450 = \$353,550 \times 0.65 = \$229,807$).

Cota developed the sales comparison approach and the cost approach to value. Despite the subject's unique design and lack of a basement, Cota reports that "market data indicates no functional or external obsolescence." (Ex. 1, p. 2).

In developing his sales comparison approach, Cota relied on six sales and one listing. The sales occurred between March 2014 and April 2015. PAAB questions whether these older sales would adequately reflect a January 1, 2016 market value. Only one sale (Comparable 5) and the active listing (Comparable 7) were homes without basements like the subject property. These two comparable properties had adjusted values of roughly \$400,000; and they are fifty-six and eighteen years old compared to the newly constructed subject property. These comparables also required large GLA adjustments. After making adjustments to all of the comparables, Cota's adjusted range of value was roughly \$393,000 to \$457,560. His gross adjustments ranged from 21% to 41%, with an average gross adjustment of nearly 33%.

Black Hawk County Assessor TJ Koenigsfeld was critical of the appraisal because of the large adjustments needed due to differences between the subject property and the comparable properties. (Ex. B). While PAAB recognizes Iowa law prefers the sales comparison approach, we also recognize the unique design of the subject property and its acreage site makes it difficult to find truly comparable properties

and as a result would likely require significant adjustments. “As the number of adjustments increases, the reliability of the value indication derived from that comparable decreases.” APPRAISAL INSTITUTE, APPRAISING RESIDENTIAL PROPERTIES 494 (3rd. ed. 1999).

Cota also developed the cost approach, concluding a value of \$459,455. Relying on Marshall and Swift, a national cost manual, Cota determined a replacement cost new (RCN) for the subject improvements of \$374,455. (Ex.1, p 4). In comparison, the Assessor determined a RCN for the improvements of \$367,573 rounded $((\$196,206 + \$50,487) \times 1.49 = \$367,573)$ (Ex. A, p. 2).

Erisman also submitted a comparable property located at 30523 Butler Avenue, Cedar Falls he believes supports his opinion that his property is over assessed. (Exs. 1-3). The following table is a brief comparison of the subject property and the Butler Avenue property.

	Site Size (Acres)	Gross Living Area (GLA)	Sale Price	Sale Date	2016 Assessed Value
Subject	1.29	3758	N/A	N/A	\$326,640
30523 Butler Ave	3.50	4872	\$440,000	Sep-16	\$488,920

Ultimately, we do not find it necessary to analyze this comparable because the sale occurred well after the January 1, 2016, assessment date and it was unadjusted for differences to arrive at a conclusion of market value by the sales comparison approach.

Erisman also attempts to compare the assessed value of 30523 Butler to his assessment to arrive at a conclusion of the improvement value. (Ex. 3). We note that 30523 Butler is located in Butler County, not Black Hawk County like the subject. The fact that the properties are in two separate assessing jurisdictions does not foreclose its use in the sales comparison approach, but does make a comparison between the cost approaches utilized to assess the properties difficult. The cost approach method to value a property may have been tailored to accommodate the needs of the specific assessing jurisdiction. Without the full property record card for 30523 Butler, including all cost calculations, it is impossible to accurately evaluate Erisman’s analysis.

Aside from that, we also note other concerns with Erisman's approach. His 25% adjustment to 30523 Butler inherently treats each square foot as having equal value. Pursuant to the law of diminishing marginal returns, however, the value of a property on a per-square-foot basis generally diminishes as its size increases. APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 31-32 (14th ed. 2013). This effect is shown in the MANUAL by comparing the base costs of the properties. The Butler property is over 1000 square feet larger than the subject, with a main level of 1824 square feet compared to the subject's main level of 1121 square feet. While the subject has a base cost of \$134.80 per-square-foot, 30523 Butler has a base cost of \$112.20 per-square-foot. MANUAL pp. 7-57, 7-58. Thus, Erisman's 25% adjustment may overstate the difference in value between 30523 Butler and the subject.

Moreover, his calculations are based on the depreciated costs (\$437,920) of the Butler improvements and not the RCN. (Ex. 2). The Butler property was built in 2008 compared to the subject that was built in 2015; therefore, it would have more physical depreciation than the subject. Lastly, the subject property has a grade (quality) rating of 2+00. The Butler property grade is not listed on the property record card. (Ex. 2). Differences in grade also result in different cost factors, which will affect the assessed value of a property.

Analysis & Conclusions

Erisman submitted the Cota appraisal (Ex. 4) and a property he considered comparable to support his belief his property is over assessed. (Exs. 1-3). First we do not find Erisman's analysis of the Butler property persuasive. Erisman did not adjust the Butler sale for differences to arrive at an opinion of market value as of January 1, 2016. Moreover, for reasons already explained, Erisman's attempts to conclude a value based on the Butler property are misplaced.

Next we turn to the appraisal. Because the subject property is a unique design in the market place, Cota relied on six sales and a listing for his sales comparison analysis. His sales comparison analysis had a broad range of value (\$393,000 to \$457,560) and significant gross adjustments, averaging roughly 33%. While PAAB

recognizes Iowa law prefers the sales comparison approach, we also note that “as the number of adjustments increases, the reliability of the value indication derived from that comparable decreases.” APPRAISAL INSTITUTE, APPRAISING RESIDENTIAL PROPERTIES 494 (3rd. ed. 1999).

Cota’s analysis required significant adjustments resulting in a broad range of value when comparing the selected sales properties to Erisman’s newly constructed property. Section 441.21(2) of the Iowa Code permits use of the cost and income approach when the sales approach cannot readily determine a property’s market value. And, we believe the cost approach must be considered in this case given the reasons stated above.

Both the appraisal and the Assessor’s Office have arrived at a RCN for the subject property, which are complimentary. Cota determined a RCN of \$374,455 and the Assessor’s Office arrived at an RCN of \$367,573 rounded. PAAB notes it is in Erisman’s interest to rely on the Assessor’s cost conclusions. We also note the sales data indicates the cost approach may not be adequately considering an obsolescence adjustment, and therefore overstating the property’s value. Because the subject is in an unfinished state, this is difficult to evaluate. Koenigsfeld acknowledged this concern as well, stating that “[f]or the 2017 valuation, we will consider applying obsolescence to the structure (if needed) and a valuation will be set based on a finished structure, as is.” (Ex. B). We encourage the Assessor to take this course of action when the property is complete and he can fully evaluate the necessity of an obsolescence adjustment.

For these reasons, we find Erisman has failed to support his 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).

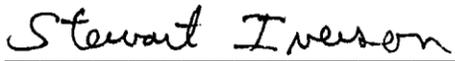
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review

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:

Philip Erisman by eFile

David Mason by eFile