

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

PAAB Docket No. 2016-015-00004C

Parcel No. 303006148001001

David Gilson (Gilson Graphics, Inc.),

Appellant,

v.

Cass County Board of Review,

Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2016. David Gilson is the owner of Gilson Graphics, Inc, which is the title holder of the subject property. Gilson is self-represented and requested a written consideration of his appeal. Attorney Brett Ryan represented the Cass County Board of Review.

The subject property is a commercial retail strip center located at 902 E 7th Street, Atlantic. The improvements were built between 1950 and 1980, it has 5582 square feet of gross building area (GBA) and 4950 square feet of concrete parking. The site is 0.427 acres. (Ex A).

The property's January 1, 2016 assessment was \$166,560, allocated as \$35,740 in land value and \$130,820 to improvement value. Gilson'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.

Gilson re-asserts his claim to PAAB and contends the subject property's correct assessed value is \$125,000. (Appeal 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

David Gilson purchased the subject property in May 2013 for \$125,000. He believes this is the correct fair market value for the January 1, 2016 assessment. Gilson asserts that after a review of comparable commercial properties in and around

Atlantic, Iowa, he believes the assessed value should be reduced. (PAAB Appeal). Gilson did not submit any evidence to PAAB to support his assertion.

The Board of Review submitted an affidavit from Cass County Assessor Brenda Nelson. (Ex. B, amended). Nelson explained that Gilson purchased the subject property in May 2013 as the result of a foreclosure. Prior to his purchase, Rolling Hills Bank and Trust foreclosed and acquired the property in November 2012. Prior to the foreclosure, the property was owned by Pacific Investments, which bought the property in 2002 for \$160,000. (Ex. B, amended).

The Board of Review also submitted six sales of commercial properties in Atlantic that have sold between September 2012 and May 2014. The sale prices ranged from \$125,000 to \$200,000; or \$30.15 per-square-foot to \$96.76 per-square-foot. (Ex. B, amended through I). We note the subject is currently assessed at \$29.83 per-square-foot.

### **Analysis and Conclusions**

The record shows that Gilson purchased the property in 2013 for \$125,000 as a foreclosure sale. “Sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including...foreclosure or other forced sales.” § 441.21(1)(b). In this case, the subject’s sale is not a reliable indicator of the subject’s fair market value because it is was an abnormal transaction. As a result, we give it no consideration.

Gilson did not submit any other evidence of the subject’s fair market value as of January 1, 2016, such as adjusted comparable properties, an appraisal, or a cost analysis. As such, Gilson has failed to prove that his property is assessed for more than the value authorized by law.

## Order

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

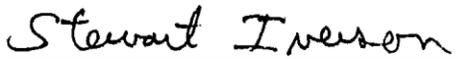
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

David Gilson by eFile

Brett Ryan by eFile