

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

PAAB Docket Nos. 2016-003-00228R & 2016-003-00236R

Parcel Nos. 19-33-227-025 thru 19-33-227-072

Luana Savings Bank and
SS Holdings, LLC,

Appellants,

vs.

Allamakee County Board of Review

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on April 10, 2017. Luana Savings Bank and SS Holdings, LLC were represented by David Schultz, president of the Bank. Allamakee County Board of Review was represented by attorney Brett Ryan.

The subject properties were formerly four apartment buildings that were converted to residential condominiums; there are a total of forty-eight individual units with twelve in each building. The units contain either two or three bedrooms. As of January 1, 2016, Luana Savings Bank owned thirty-six of the units locally known as 210 States Drive Units 1-12; 425 States Drive Units 1-12; and 439 States Drive Units 1-12, Postville, Iowa. (Exs. A1, B1 & C). As of January 1, 2016, SS Holdings, LLC owned the remaining twelve units locally known as 220 States Drive Units 1-12, Postville, Iowa. (Exs. A2 & B2). The January 1, 2016 assessed value (AV) for each subject parcel is set out in the following table.

Address	Total AV/Unit	Land Value/Unit	Dwelling Value/Unit
210 States Dr, Units 1,2,5,6,9&10 (3-Bdrm)	\$47,100	\$3,300	\$43,800
210 States Dr, Units 3,4,7,8,11&12 (2-Bdrm)	\$44,500	\$3,300	\$41,200
425 States Dr, Units 1,2,5,6,9,10 (2-Bdrm)	\$46,300	\$3,300	\$43,000
425 States Dr, Units 3,4,7,8,11&12 (3-Bdrm)	\$49,100	\$3,300	\$45,800
439 States Dr, Units 1,2,5,6,9&10 (3-Bdrm)	\$49,100	\$3,300	\$45,800
439 States Dr, Units 3,4,7,8,11&12 (2-Bdrm)	\$46,300	\$3,300	\$43,000
220 States Dr, Units 3,4,7,8,11,12 (3-Bdrm)	\$47,100	\$3,300	\$43,800
220 States Dr, Units 1,2,5,6,9,10 (2-Bdrm)	\$44,500	\$3,300	\$41,200

The Appellants petitioned the Allamakee County Board of Review claiming the subject parcels are assessed for more than allowed by law, as provided under Iowa Code sections 441.37(1)(a)(1)(b). However, the subject parcels' assessed values had not changed from 2015, so the Appellants' claim was limited to downward change in value under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the petition, noting it did not have jurisdiction to hear any ground of protest but downward change in value. The Appellants appealed to PAAB contending the subject parcels' correct value is \$24,605 for the three-bedroom units and \$21, 237 for the two-bedroom units. (Appeal, p. 4).

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). 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 "is defined as the fair and reasonable exchange between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property." *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* The sale price of the subject may not, however, conclusively establish market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). 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. § 441.21(1)(b). 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 forty-eight condominium units are located within a development consisting of four twelve-plex buildings. The buildings at 210 and 220 States Drive were built in 2002, and the buildings at 425 and 439 States Drive were built in 2006. The two-bedroom units contain 864 square feet of gross living area (GLA). The three-bedroom units contain 1001 square feet GLA. The buildings are listed in normal condition with a 4+0 construction quality grade. The driveway and parking areas are dirt and gravel. (Ex. 1).

David Schultz, president of Luana Savings Bank, testified that Postville is an extremely depressed community, with a high unemployment rate, and he believes it is one of the lowest income areas in Iowa. He argues low income households cannot support ever increasing assessments.

Schultz contends there is a criminal presence in the area that adversely impacts the subject parcels' values. He testified that washers and dryers have been stolen from the subject buildings' hallways, and units have been broken into and destroyed. He

asserts at one time there was a murderer at-large with family ties to one of their tenants. He also stated they are contacted from time to time by U.S. Immigration and Customs Enforcement (ICE) and contends the community has not recovered since the 2009 ICE raid.

Schultz testified that Luana Savings Bank acquired all of the subject parcels in a foreclosure. SS Holdings, which is owned by his two daughters Sarah and Stephanie, was created to take two of the buildings off of the Bank's books. All twelve 220 States Drive units were transferred to SS Holdings in December 2015 in a multi-parcel transaction valued at \$275,000. (Ex. 2). Likewise, all twelve 210 States Drive units were transferred to SS Holdings in May 2016 in a multi-parcel transaction also valued at \$275,000. (Ex. 2). Both transfers are listed as "multi-parcel," which reflects the twelve individual units in each building. Schultz argued these transfers reflect a value of \$22,917 per unit. The evidence and testimony also indicates both transfers were a result of foreclosure.

Schultz stated twenty-two of the twenty-four units at 220 and 210 States Drive were occupied when SS Holdings took possession, but now only fifteen are occupied. He further noted the twenty-four units at 425 and 439 States Drive sat empty for five-years, with a single tenant added in 2016. Schultz testified that presently four units are occupied at 439 States Drive, and there are zero occupied units at 425 States Drive. He contends they cannot find anyone to rent, let alone buy the condominium units. (Ex. 7). He noted the subject parcels are set up for Section 8 housing, but no one on the Section 8 housing list wants to live in Postville. He predicts that soon all four buildings will be empty.

The Appellants submitted an appraisal of 210 States Drive that was developed by Rebecca Venenga of Omnia Real Estate Services, Denver, Iowa. Its purpose is stated as determining the market value for the 11,190 square foot gross living area (GLA) of the structure situated on twelve distinct parcels totaling 0.60 acres. Overall, Venenga considered the subject property to be in good condition with no repairs needed at the time of inspection. Venenga utilized the sales comparison approach and the income approach to value, reconciling to a June 9, 2016 final opinion of \$280,000 for 210 States Drive. (Ex. 1). Schultz contends Venenga's appraisal reflects the actual

value for each of the four buildings individually, arguing they are all identical and located adjacent to each other. He testified that the appraisal also supports SS Holdings' \$275,000 purchase price for 210 States Drive. The record reflects that the Venenga appraisal did not state a final opinion of value for the twelve individual condominium units at 210 States Drive.

Schultz further testified regarding the sale of a Postville multi-residential property, with two twelve-plexes on it, which sold in 2011 for \$130,000 or \$5417 per unit. (Ex. 12). Schultz asserts the 12380-82 100th Street sale demonstrates the depressed nature of Postville's economy, contending the sale is indicative of property values in the area.

The Appellants also offered Beacon property record cards for eight other properties in Postville, New Albin, Lansing, and Waukon. (Ex. 9). Schultz noted two of the Waukon properties have good occupancy and are assessed at \$13,000 per unit and \$26,000 per unit as compared with \$46,000 per unit and \$49,000 per unit for the subject's empty buildings in Postville. (Ex. 5). The record further reflects none of these properties were involved in recent normal arms-length sales transactions.

Analysis and Conclusions of Law

The Appellants argue the subject parcels have suffered from a downward change in value because of the depressed local economy.

"For even-numbered assessment years, when the property has not been reassessed," a taxpayer may challenge his 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.

The Appellants have the burden of proof for demonstrating that the value of the subject parcels have decreased since the last reassessment in 2015. Iowa Code § 441.21(3). In order to prevail, the Appellants must establish the subject parcels' actual fair market value as of January 1, 2015, and the January 1, 2016 actual value, demonstrating a decline in value has occurred during the year.

The Appellants offered three different types of evidence in support of their claim that the subject parcels have had a downward change in value since January 1, 2015.

First, the Appellants offered evidence of the transfer of 220 States Drive and 210 States Drive in December 2015 and May 2016 respectively. The record reflects each transaction was valued at \$275,000. However, these are not found to be normal arms-length transactions upon which market value can be determined. These transfers were a result of foreclosures and amongst close family members, the Bank president transferring the properties to his two daughters. Therefore, we give this evidence no consideration.

The Appellants also submitted the Venega appraisal, which reports a total value of \$280,000 for 210 States Drive, a value of opinion for the entire building. Schultz argued the Venega appraisal supported a value for each of the four buildings, as he believed them to be identical, and that the \$280,000 opinion of value could be applied equally to each with a unit value of \$23,333. Because Venega's appraisal valued the whole property and does not opine a market value for the individual units, which are the subject of these appeals, we find it is not relevant or reliable evidence to support either the individual subject parcels' January 1, 2015 values or their actual January 1, 2016 values. It is insufficient to value the whole and simply divide by the number of units to arrive at a conclusion for the subject units. See *Dinkla v. Guthrie county Bd. of Review*, 2006 WL 2422170 *2 (Iowa Ct. App. August 2003) (concluding the appellant failed to satisfy his burden because he provided a value "for the property as a whole, rather than valuations for the separate parcels"). Moreover, in this case, the requirement for individual and distinct values for each unit is especially relevant where the units vary in

size between two-bedroom and three-bedroom as they would likely command a different value from the market for this feature alone. Therefore, we give no weight to the Venega appraisal.

The Appellants next offered the assessments of eight properties they believe are comparable to the subject, highlighting differences in the assessments. However, simply comparing assessed values is not an acceptable method to support a parcel's actual value. Moreover, all of these properties are apartments (multi-residential or commercial) and are not comparable to the subjects' individual condominium units. Therefore, they are inappropriate for determining the market value of the subject properties.

The Appellants also offered evidence of a 2011 sale of a 100th Street property in Postville. While there are twelve-plex buildings on this property, we are hesitant to rely solely on it to determine a 2016 opinion of value. Moreover, the sale involves a multi-residential (apartment) complex and not individual condominium units like the subject properties. Therefore, we give it no further consideration.

Due to an absence of reliable evidence of the actual value of the subject properties for January 1, 2015, and January 1, 2016, we find the Appellants have failed to demonstrate the subject parcels have suffered a downward change in value.

Order

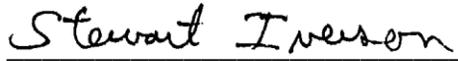
PAAB HEREBY AFFIRMS the Allamakee County Board of Review's action.

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.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

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