

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

PAAB Docket No. 2017-100-10255R

Parcel No. 05-27-140-090

IRVING MELCER,

Appellant,

vs.

CITY OF AMES BOARD OF REVIEW,

Appellee.

Introduction

The appeal was submitted for written consideration before the Property Assessment Appeal Board (PAAB) on September 15, 2017. Irving Melcer is self-represented. Attorney Mark Lambert represents the Board of Review.

Irving Melcer owns a residential property located at 4029 Fletcher Boulevard, Ames. The property's January 1, 2017 assessment was \$257,800, allocated as \$64,500 in land value and \$193,300 in dwelling value.

Melcer protested to the Board of Review. On his petition form in the space designated for an error claim, Melcer referred to an attachment that identified his claim to be that his property is assessed for more than authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied his petition.

Melcer then appealed to PAAB reasserting his claim.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). 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).

Findings of Fact

The subject property is a one-story, end-unit townhouse built in 1993 with 1337 square feet of gross living area (GLA), 733 square feet of good living-quarters-quality finish, an enclosed porch, a wood deck, and an attached two-stall garage. The site is 0.124 acres. (Ex. A).

Melcer states his assessed land value increased over 60% from its 2016 assessed value of \$39,500. He finds the increase outrageous and unjustified given the

economy and current real estate market. Melcer believes a more reasonable increase in land value would be 10%.

In support of his claim, Melcer submitted a one page form letter from Freedom Mortgage, which appears to be part of a cash-out refinancing home loan marketing campaign. The letter states Melcer's home has an estimated value of \$238,288. (Ex. 1).

The Board of Review submitted an appraisal completed by Ames City Assessor Greg Lynch, as of January 1, 2017. Lynch developed a "modeled" sales comparison approach. (Ex. B, p. 5). Lynch submitted three sales of end-unit townhomes, summarized in the following table. (Ex. B, p. 7).

Property	Sale Date	Sale Price	GLA	Basement Finish	Adjusted SP
Subject	N/A	N/A	1337	733 LQ	N/A
1 - 4016 Fletcher Blvd	Sep-15	\$229,000	1346	740 LQ	\$254,700
2 - 4013 Fletcher Blvd	May-16	\$266,500	1390	1059 LQ	\$257,900
3 - 4215 Stone Brooke Rd	May-16	\$284,500	1465	677 LQ	\$275,100

The comparables are similar in size, age, quality, condition, and amenities. Despite this, the properties sold with a \$55,500 spread in their sale prices. The oldest sale date (Comparable 1) set the lower end of this range. Comparable 3 is the newest property, built in 2002, and sets the upper end of the range. Lynch adjusted the property for differences based on an automated valuation model (AVM). Based on this analysis, Lynch opines the subject's \$257,800 assessed value is its fair market value. (Ex. B, p. 9).

Analysis & 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).

Melcer submitted a one page form letter from Freedom Mortgage indicating an estimated home value of \$238,288. (Ex. 1). However the letter lacks any explanation for how the value was determined. Therefore PAAB declines to rely on this evidence.

Melcer did not submit any other evidence of the fair market value of the subject property such as might be demonstrated with an appraisal or a cost analysis.

The Board of Review submitted an appraisal by its City Assessor, Greg Lynch. (Ex. B). While Lynch developed the sales comparison approach to value, the preferred method under Iowa law, he based his adjustments on an AVM. While PAAB recognizes the use of AVM's in mass valuation, we question the reliability of its use in determining the market value of a single property because it includes adjustments the market would most likely not consider. For instance, Lynch applied GLA adjustments to Comparables 1 and 2, which respectively contain 9 square feet and 53 square feet more than the subject property. It is unlikely market participants would react to this minute difference. Similarly, Lynch made adjustments to the sites based on size ranging from negative adjustment of \$4770 to positive adjustments of \$4663. In townhome developments, the lots are typically allocated and unless there are differences in views or location within the development the market does not typically react to site size. For this reason, PAAB declines to rely on Lynch's conclusions.

Despite this, the burden is on Melcer to show the subject property's correct value. Viewing the record as a whole, we find insufficient evidence to support Melcer's claim that the subject property is assessed for more than authorized by law.

Order

PAAB HEREBY AFFIRMS the City of Ames Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

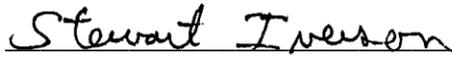
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Board Member



Camille Valley, Board Member



Stewart Iverson, Board Chair

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City of Ames Board of Review by eFile