

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

PAAB Docket No. 2016-101-00238R

Parcel No. 14254-28003-00000

Patricia Smith and John Smith,

Appellants,

vs.

City of Cedar Rapids Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 26, 2016. Patricia Smith represented herself and John Smith. Jeff Augustine, a residential appraiser with the City of Cedar Rapids Assessor's Office, represented the Board of Review.

The Smiths own a single family residential property located at 4200 Pioneer Trail SE, Cedar Rapids, Iowa. Built in 1990, the one-story frame home is situated on a 0.661 acre lot. (BOR Cert p. 6).

The property's January 1, 2016 assessed value was set at \$294,700, allocated as \$72,200 in land value and \$222,500 in dwelling value. *Id.* This value did not change from the prior year's assessment. On protest to the Board of Review, the Smiths claimed their property had a downward change in the value since its January 1, 2015 assessment, as provided under Iowa Code section 441.37(1)(a)(2). *Id.* at 5. The Board of Review denied the petition. The Smiths then appealed to PAAB, reasserting their claim and stating \$275,000 is the correct value of the subject property.

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 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).

Iowa Code section 441.37(1)(a)(2) and its reference to section 441.35(2) give rise to the claim of downward trend in value. *See Security Mut. Ins. Ass'n of Iowa v. Bd. of Review of City of Fort Dodge*, 467 N.W. 2d 301, 304 (Iowa Ct. App. 1991). This ground may only be pled in a non-assessment or "interim" year. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977).

Findings of Fact

The subject property contains 28,795 square feet of land, a one story frame dwelling with 2718 square feet of gross living area. The 26-year old home has 598 square feet of low-quality basement finish, 3.75 baths, a fireplace, a 624 square foot garage and 1431 square feet of deck/patio/porch area. (BOR Cert. pp. 7 & 9-16) The dwelling is considered to be in normal condition for the age of its improvements with typical maintenance. A 1790 square foot enclosed porch with an in-ground pool is also located on the property, but its value was removed from assessment in 2012 until such time as the pool liner is replaced. (Ex. A). According to the Smiths it remains in disrepair.

Patricia Smith testified everything in the house is old and outdated, including the kitchen and baths, and none of the windows and doors are energy efficient. Smith contends they could not sell their property for \$300,000 when new 4-5 bedroom homes across the street are selling for only \$275,000 to \$280,000. She testified fifty new homes have been built across the street since they purchased the subject property in 2004.

The Board of Review noted two sales occurred between January 1, 2013 and December 31, 2015 in the subject property's neighborhood. (Ex. C). It found the dwelling located at 1936 South Ridge Knolls Court SE to be of similar size and quality of construction, plus it was a more recent sale (July 2014). The other property was considered inferior due to its lower quality of construction and because it had 1000 less square feet than the subject property's home. The table below provides details on the subject property and the comparable property located at 1936 South Ridge Knolls Court SE.

Address	Year Built	Sale Price	Adjusted Market Value	Sq Ft Land	Garage	Above Ground Living Area
4200 Pioneer Trail SE	1990	N/A	N/A	28,795	2 Car	2718 Sq Ft
1936 South Ridge Knolls Ct SE	1994	\$345,500	\$306,000	20,250	3 Car	2591 Sq Ft

Both properties have a one-story frame home with 3.75 baths, a fireplace and a full basement. (BOR Cert. pp 7-13). While the subject's garage can only accommodate

2 vehicles, it has 127 more square feet of above ground living area and 1131 more square feet of deck/patio/porch area than the South Ridge Knolls Court SE property.

The Assessor adjusted the comparable property's sales price, using the STATE OF IOWA REAL PROPERTY APPRAISAL MANUAL (2008), to account for differences between it and the subject property. (Ex. H). The result was an adjusted market value of \$306,000, which is \$11,300 higher than the subject property's current assessed value of \$294,700. *Id.*

Smith argues history demonstrates a downward trend for older homes in their neighborhood. She noted they bought the property in 2004. She asserts that at the time it had been on the market for over 4-years because no one wanted a pool. She further testified the seller's asking price was \$350,000. She noted they were only willing to pay \$330,000 in 2004. Smith contends these facts coupled with the subject property's current assessed value at \$294,700, demonstrates an additional \$35,300 reduction in value.

The Board of Review asserts the Smiths have not met their burden of proof to succeed on a downward trend claim. (Ex. I). In particular, it noted the subject property has not recently sold and fee simple appraisals have not been done to demonstrate a beginning value on January 1, 2015 and an ending value on January 1, 2016. *Id.* Smith conceded they had not entered any evidence into the record, relying totally on her testimony.

Conclusions of Law

"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). 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 burden of proof is upon the taxpayer yet we find the record void of any evidence submitted by the Smiths as to the market value of the subject property on January 1, 2016, as well as its actual value on January 1, 2015. In order to prevail on their claim, the Smiths needed to demonstrate a decline in value by introducing evidence sufficient to support that conclusion, such as competent fee simple appraisals or sales of comparable properties with adjustments made to account for differences between each of them and the subject property regarding such issues as size, quality of construction, features and condition. Therefore, we find the Smiths have not met their burden.

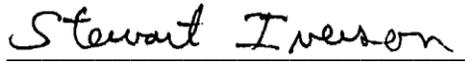
Order

PAAB HEREBY AFFIRMS the subject property's January 1, 2016 assessed value as set by the City of Cedar Rapids Board of Review.

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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