

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

PAAB Docket No. 2016-101-00239R

Parcel No. 14262-28001-00000

Patricia S. and John G. Smith,

Appellants,

vs.

City of Cedar Rapids Board of Review,

Appellee.

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 residential property located at 1105 Forest Drive SE, Cedar Rapids, Iowa. Built in 1951, the one story frame home is situated on a 0.124 acre lot. (BOR Cert p. 5).

The property's January 1, 2016 assessed value was set at \$57,500, allocated as \$16,500 in land value and \$41,000 in dwelling value. *Id.* The assessed value remained unchanged from 2015. On protest to the Board of Review, the Smiths claimed their property is assessed for more than the value authorized by law and a downward change in the value since its January 1, 2015 assessment, as provided under Iowa Code section 441.37(1)(a)(1)(b) & (1)(a)(2). *Id.* at 6. The Board of Review denied the petition. The Smiths then appealed to PAAB, reasserting their claims and stating \$40,000 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 5407.70 square feet of land, a one story frame dwelling with a slab foundation and 862 square feet of gross living area. The 65-year old home has a one car garage, full bath, and an attached 120 square foot metal canopy. (Ex. A). The dwelling is considered below normal condition for the age of its improvements with typical maintenance. *Id.*

Patricia Smith testified their home is small and well maintained, but asserts the house is difficult to rent because they believe it is located in a bad neighborhood. She testified the police are frequently called to the neighborhood and contends the value of their property has declined because of the influence of the apartments across the street, where a meth lab recently blew up. She stated that even though there have been improvements to the apartments, she has problems attracting tenants to her property because of the notoriety of the meth lab explosion.

Smith asserts the subject property is assessed \$10,000 higher than a comparable property they own at 2928 Soutter Avenue SE in Cedar Rapids. She notes the Soutter property is located in a much better neighborhood and is able to command higher rents. The table below compares their Soutter Avenue property with the subject property.

Address	Year Built	Assessed Value	Acres Land	Garage	Above Ground Living Area
Subject Property	1951	\$57,500	0.124	1-Attached	862
2928 Soutter Avenue SE	1950	\$49,500	0.138	1-Detached	746

While the properties may be similar they do have differences, which can affect their assessed values. The Smiths, however, offered no evidence demonstrating the value of the differences.

The Board of Review offered two comparable properties into the record, which are located within the same development as the subject property and have similar quality of construction. (Exs. D & H). The following table is a summary of these properties.

Address	Year Built	Sales Price	Adjusted Value	Acres Land	Garage	Above Ground Living Area	Basement Finish
Subject Property	1951	N/A	N/A	0.124	1-Attached	862	None
1137 21st St SE	1953	\$78,500	\$68,700	0.222	1-Detached	768	None
1004 23rd St SE	1946	\$75,000	\$66,700	0.119	1-Detached	672	330 LQ

Both of the comparable properties have one-story frame homes with a full bath like the subject property, and both are in superior condition compared with the subject property's below-normal condition for the age of improvements with typical maintenance.

The Assessor made adjustments to each comparable property's sales price, using the STATE OF IOWA REAL PROPERTY APPRAISAL MANUAL (2008), to account for differences between each of them and the subject property. (Ex. H). This resulted in the adjusted market values noted above, both of which are higher than the subject property's current assessed value of \$57,500. *Id.*

The Board of Review contends the data indicates there has been little to no change to the overall market from the January 1, 2015 assessment date to the January 1, 2016 assessment date. (Ex. I).

We further note the subject property has not recently sold and fee simple appraisals have not been done to demonstrate a value on January 1, 2015, and a value on January 1, 2016. *Id.* Both of which are required to demonstrate a downward change in value. Smith even 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

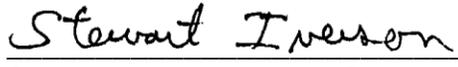
PAAB HEREBY AFFIRMS the subject property’s January 1, 2016 assessed value as set by the City of Cedar Rapids Board of Review.

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


Karen Oberman, Board Member


Stewart Iverson, Board Chair

Copies to:

Patricia S. and John G. Smith

4200 Pioneer Trail, SE

Cedar Rapids, Iowa 52403

City of Cedar Rapids Assessor by eFile