

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

PAAB Docket No. 2016-101-00240R

Parcel No. 14164-26020-00000

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. Al Ehler, 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 1001 Center Point Road NE, Cedar Rapids, Iowa. Built in 1924, the one-story frame home is situated on a 0.064 acre lot. (BOR Cert p. 6).

The property's January 1, 2016 assessed value was set at \$45,900, allocated as \$9800 in land value and \$36,100 in dwelling value. *Id.* The value changed from the previous year's assessment. On protest to the Board of Review, the Smiths claimed the property is over assessed and that there has been a downward change in the market value of the subject property, as provided under Iowa Code sections 441.37(1)(a)(1)(b)&(2). (Ex. I). The Board of Review denied the petition. The Smiths then appealed to PAAB, asserting \$35,000 is the subject property's correct total value.

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 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 contains 2800 square feet of land, a one-story frame dwelling with 785 square feet of gross living area, one full bath, a 192 square foot patio and a 96 square foot open porch. (BOR Cert. p. 6) The 92-year old dwelling is

considered to be in below-normal condition, with a 54% physical depreciation applied by the Assessor. (Ex. A). There is no garage on the property. *Id.*

Patricia Smith testified that the subject property has absolutely no yard area. She further stated they have rented the property for \$550 per month to two elderly persons who actually appreciated not having a yard to maintain. She noted the whole house is small, the kitchen is basically a galley (4' x 6') and it and the bath are old. She asserts they could not sell the property for its assessed value as the neighborhood is declining, with single family homes being converted into rentals.

Smith questioned why the Assessor has the subject property listed as a two bedroom dwelling. She asserted it is really only a one bedroom house, as it is open between the second small room and the living room. Smith argued that whether a dwelling is a one bedroom or a two bedroom does affect its market value. However, she did not submit any evidence in support of this position.

Al Ehler testified on behalf of the Board of Review. He explained if the assessor adjusts the record and changes the subject property from a two bedroom to a one bedroom home it will have no effect on the assessed value of the subject property. Ehler further noted the subject property was inspected on April 21, 2015, and the Assessor's Office decided a re-inspection was unnecessary for the 2016 Board of Review as the Smiths informed it that no changes had occurred since the prior inspection. (Ex. H).

The Board of Review explained the Assessor's Office conducts an annual sales analysis, which for the 2016 assessment indicated the subject property's neighborhood has had a slight downward trend from 2015 to 2016. Subsequently, the map factor was adjusted from .90 to .86, resulting in a reduction in the subject property's assessed value from \$47,600 for 2015 to \$45,900 for 2016. *Id.*

The Board of Review offered five 2015 comparable property sales into the record, which are located in the same map area as the subject property. (Ex. C). The following table is a summary of these properties.

Comps	Address	Year Built	2015 Sales Price	Adjusted Market Value	Sq Ft Land	Above Ground Living Area
Subject	1001 Center Point Road NE	1924	N/A	N/A	2,800	785 Sq Ft
1	955 16th Street NE	1915	\$14,000	\$17,975	3,280	692 Sq Ft
2	1013 16th Street NE	1921	\$69,000	\$43,800	3,200	894 Sq Ft
3	2924 Center Point Road NE	1918	\$87,000	\$55,625	40,800	833 Sq Ft
4	1314 M Avenue NE	1920	\$60,000	\$47,450	5,312	624 Sq Ft
5	876 12th Street NE	1925	\$82,100	\$58,566	5,600	704 Sq Ft

All of the comparable properties were built around 100-years ago, are one-story frame homes of a similar style and size as the subject property, with full basements and a single bath. (Ex. C). Comparables 3, 4, and 5 have no garage like the subject property. *Id.*

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. This resulted in adjusted market values ranging from \$17,975 to \$58,566, with the subject property's current assessed value of \$45,900 falling within that range. (Ex. H).

Smiths did not submit any evidence into the record. Further, the subject property has not recently sold and no fee simple appraisals have been done on the property demonstrating its value. *Id.*

Conclusions of Law

The Smiths pled both an over assessment claim and a downward trend in value claim. It is important to note that these two claims are similar in nature in that they both contend the assessed value should be lowered. The difference is when each claim may be pled. As provided under Iowa Code section 441.37(1)(a)(1)(b), a claim contending the property is over assessed may only be pled during years it is reassessed. A downward trend claim may only be pled in an interim year when the assessed value remains unchanged from the prior year. *Id.* § 441.37(1)(a)(2). Here the January 1, 2016 total assessed value was set at \$45,900, which is \$1655 lower than its January 1, 2015. Because the subject property's assessed value was changed for 2016, the claim of over assessment applies instead of a downward trend claim.

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).

Smith did not submit any evidence and instead relied solely on her testimony to support their claim. The Smiths did not submit any evidence of the January 1, 2016 actual value, such as an appraisal, adjusted comparable properties, or a cost analysis. Therefore, we find the Smiths have not met their burden of proof.

Order

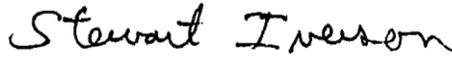
PAAB HEREBY AFFIRMS the subject property's January 1, 2016 assessed value as set by the City of Cedar Rapids Board of Review.

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

Copies to:

Patricia Smith and John Smith

4200 Pioneer Trail, SE

Cedar Rapids, Iowa 52403

City of Cedar Rapids Assessor by eFile