

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

PAAB Docket No. 2016-101-00241R

Parcel No. 14222-08002-00000

Patricia S. and John G. 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 G. 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 209 16th St NE, Cedar Rapids, Iowa. Built in 1905, the one-and-one-half story frame home is situated on a 0.074 acre lot. (BOR Cert p. 6 & 18).

The property's January 1, 2016 assessed value was set at \$37,900, allocated as \$12,000 in land value and \$25,900 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 \$30,000 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 has 3200 square feet of land, a one-and-one-half story frame dwelling with 972 square feet of gross living area, a full unfinished basement, a 136 square foot open porch and a small frame shed in the yard. (BOR Cert. p. 18-21)

The 111-year old dwelling is considered to be in below-normal condition, with a 60% physical depreciation applied by the Assessor. (Ex. A).

Patricia Smith testified that the subject property has “taken a beating.” In 2012 a flash flood caved in the front wall and the basement filled with mud and dirt. While she acknowledged they rebuilt a wall, she contends the property has a lower value because of the need to disclose the flood and wall issue to all potential renters and/or buyers. Smith also testified the house is on a “party-line” sewer that is connected to five houses instead of directly to the main sewer line, so if one sewer backs up it affects all of the properties. She further testified the neighborhood is declining with an increase in crime and police presence. Smith contends that on a good day they might get \$30,000 for the property; but she offered no support for this opinion.

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.

Comparibles	Address	Year Built	2015 Sales Price	Adjusted Value	Acres Land	Above Ground Living Area
Subject	209 16th St NE	1905	N/A	N/A	0.074	972
1	1524 D Ave NE	1912	\$ 34,000	\$ 28,425	0.096	1280
2	207 17th St NE	1900	\$ 50,500	\$ 43,855	0.070	1103
3	1522 D Ave NE	1912	\$ 71,500	\$ 50,500	0.096	972
4	1645 D Ave NE	1890	\$ 35,950	\$ 29,429	0.167	1578
5	321 16th St NE	1910	\$ 16,000	\$ 26,725	0.034	1124

All of the comparable properties were built over 100-years ago, are one-and-one-half story frame homes of similar style and size as the subject property, with full basements and a single bath. (Ex. C). Comparables 3 and 4 also have garages. *Id.* Comparables 1 and 2 have a similar quality of construction while the other three are superior quality. (Ex. H).

Smith testified they had owned Comparable 1 and asserts it is a far better house than the subject property, questioning its adjusted value of \$28,425. Smith does not believe this property is comparable to the subject, but she did not explain why.

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 \$26,725 to \$50,500, with the subject property's current assessed value of \$37,900 falling within that range. (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 downturn from 2015 to 2016. *Id.* Subsequently, the map factor was adjusted from .70 to .65, resulting in a reduction in the subject property's assessed value from \$40,000 for 2015 to \$37,900 for 2016. *Id.*

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 \$37,900, which is \$2100 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).

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.

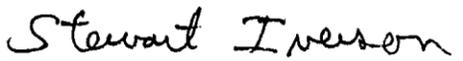
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Camille Valley, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

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City of Cedar Rapids Assessor by eFile