

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

PAAB Docket No. 2016-101-00242R

Parcel No. 14113-30001-00000

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 135 33rd Street Drive SE, Cedar Rapids, Iowa. Built in 1896, the one-story frame home is situated on a 0.253 acre lot. (BOR Cert p. 6 & 18).

The property's January 1, 2016 assessed value was set at \$37,800, allocated as \$18,000 in land value and \$19,800 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 11,040 square feet of land (0.253 acre), a one-story frame dwelling with 1120 square feet of gross living area, one-half basement, 252 square feet of porch area, and a 384 square foot attached garage. (BOR Cert. p. 18-

23) The 120-year old dwelling is considered to be in poor condition, with a 70% physical depreciation applied by the Assessor. (Ex. A).

Patricia Smith testified regarding the condition of the property. She noted the upstairs is not used, the unfinished back room is unusable, the kitchen needs updating, plus the home needs new siding and windows. The Smiths bought the property for \$25,000 and she testified it is not worth much more because everything needs to be done to the house; 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.

Comparable Property	Address	Year Built	2015 Sales Price	Adjusted Value	Acres Land	Sq Ft Garage	Above Ground Living Area
Subject	135 33rd St Dr SE	1896	N/A	N/A	0.253	384-Attached	1120
1	345 31 St Dr SE	1911	\$75,000	\$46,650	0.149	280-Attached	839
2	308 30th St Dr SE	1895	\$65,000	\$ 2,850	0.413	240-Detached	1296
3	325 32nd St Dr SE	1920	\$50,000	\$30,925	0.192	None	615
4	208 28th St Dr SE	1939	\$53,900	\$12,925	0.193	480-Detach	1164
5	219 35th St Dr SE	1922	\$87,500	\$29,575	0.298	308-Attached	1252

All of the comparable properties were built over 100-years ago and are one-story frame homes like the subject property. (Ex. C). Comparable 1 has a half basement like the subject; Comparable 3 has a three-quarter basement; and the other three properties all have full basements. *Id.* Comparable 3 also is the only property where an economic obsolescence has been applied (10%). *Id.* Comparable 4 has poor quality of construction like the subject, while the other four are of superior quality (normal & above-normal). *Id.*

Smith testified she does not believe these properties are comparable because they are valued so much higher than the subject property's \$37,800 assessed value.

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 \$2850 to \$46,650, with the subject property's current assessed value of \$37,800 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 1.00 to .97, resulting in a reduction in the subject property's assessed value from \$38,500 for 2015 to \$37,800 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 \$37,800, which is \$700 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 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.

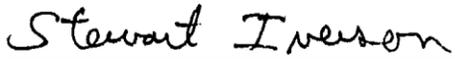
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



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