

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

PAAB Docket No. 2016-101-00243R

Parcel No. 14142-56014-00000

Patricia Smith and John Smith

Appellants,

vs.

City of Cedar Rapids Board of Review,

Appellee.

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**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 2321 1st Avenue SE, Cedar Rapids, Iowa. Built in 1912, the one-story frame home is situated on a 0.080 acre lot. (BOR Cert p. 7).

The property's January 1, 2016 assessed value was set at \$48,900, allocated as \$13,200 in land value and \$35,700 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). *Id.* at 8. The Board of Review denied the petition. *Id.* at 7. 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 has 3503 square feet of land, a one-story frame dwelling with 720 square feet of gross living area, a full bath, full basement, and a 168 square feet covered porch. (BOR Cert. pp. 9 & 21-25) In 2016, the Assessor's Office adjusted the condition of the 104-year old dwelling from normal to below normal due to its original

windows, original kitchen, dated bathroom, the removal of a service sink and prefab shower stall. *Id.* A 59% physical depreciation has been applied by the Assessor. *Id.*

The Smiths assert the dwelling suffered significant damage and the “house has been beaten badly.” (PAAB Appeal). Patricia Smith testified that the subject property’s wall caved in during the Cedar Rapids’ flash flood. They subsequently repaired the wall and installed six steel brackets to brace it. However, they believe it is going to repeatedly collapse given the basement wall is adjacent to the alley where heavy garbage trucks drive by causing vibration and added pressure. She further asserts the home repeatedly floods because the City has never corrected the catch basin right outside of the home, which is unable to handle all of the runoff that comes down the hill from 1st Avenue, a major four lane roadway.

Smith contends the property does not have much of a market because of the repeated flooding. She testified they tried to sell the subject property to a person who owns other properties in the neighborhood but he would not even give them \$25,000 for it.

The Board of Review offered four 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	Sales Price	Adjusted Value	Acres Land	Garage	Total Living Area
Subject	2321 1st Ave SE	1912	N/A	N/A	0.080	None	720
1	138 25th St Dr SE	1922	\$ 78,000	\$ 35,200	0.129	1-Detach	932
2	2407 1st Ave SE	1925	\$ 50,000	\$ 10,700	0.090	1-Detach	934
3	133 24th St Dr SE	1917	\$118,400	\$ 69,025	0.161	2-Detach	833
4	136 24th St Dr SE	1931	\$115,000	\$ 39,450	0.193	2-Detach	1638

All of the comparable properties have a one-story frame home with a full basement and a single bath like the subject property. Comparable 4 has an additional half bath. (Ex. C). Comparable 1 has 312 square feet of porch/patio/deck area and Comparables 2 and 4 have enclosed/screened-in porches. Economic obsolescence of (10%) was only applied to Comparable 4. *Id.* All five comparables are superior in

condition (above-normal) as compared with the subject property's below-normal condition. *Id.*

Smith questioned how the Board of Review could possibly compare houses selling for up to \$118,400 with the subject property, which is assessed at only \$48,900.

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 adjusted market values ranging from \$10,700 to \$69,025, with the subject property's current assessed value of \$48,900 falling within that range. *Id.*

The Assessor's Office conducts annual sales analysis, which for the 2016 assessment indicated the subject property's neighborhood has had a slight upward trend from 2015 to 2016. *Id.* Subsequently, the map factor was adjusted from .99 to 1.04, resulting in an increase in assessed value. However, the condition of the subject property was also adjusted from normal to below normal for 2016. Therefore the result is a reduction in the subject property's assessed value from \$56,200 for 2015 to \$48,900 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 we find the January 1, 2016 total assessed value was set at \$48,900, which is \$7300 lower than its January 1, 2015 assessed value. 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.

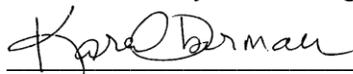
### **Order**

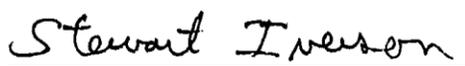
PAAB HEREBY AFFIRMS the subject property's January 1, 2016 assessed value as set by the City of Cedar Rapids Board of Review.

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.

  
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Camille Valley, Presiding Officer

  
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Karen Oberman, Board Member

  
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Stewart Iverson, Board Chair

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