

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

PAAB Docket No. 2016-101-00244R

Parcel No. 14234-52015-00000

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. 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 2928 Soutter Ave SE, Cedar Rapids, Iowa. Built in 1950, the one-story frame home is situated on a 0.138 acre lot. (BOR Cert p. 9 & 22).

The property's January 1, 2016 assessed value was set at \$49,500, allocated as \$16,500 in land value and \$33,000 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 6. The Smiths then appealed to PAAB, asserting \$40,000 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 5996 square feet of land, a one-story frame dwelling with a slab foundation, 746 square feet of gross living area, a full bath, and a one-car detached garage. (BOR Cert. pp. 9 & 22-26) The dwelling is considered to be in poor condition for the age of improvements with typical maintenance. *Id.*

The Smiths note the subject property is a rental that is located in a declining area, is very small, contains asbestos, has an outdated kitchen and there is only a shower in the bathroom; all of which make it difficult to rent. The Smiths further assert the dwelling and garage have suffered termite damage.

Patricia Smith testified they presently have the subject property listed for sale. Two investors came in and looked at it; one offered \$31,000 and the other offered \$35,000 but they did not accept either offer as they still have \$37,000 outstanding debt on the property. She also noted they were told by a real estate agent that the property should not be listed for anywhere near \$49,500 because it would sit forever; suggesting instead \$30,000 to \$35,000.

The Board of Review offered five 2014 and 2015 comparable property sales into the record, which are located in the same development as the subject property. (Exs. C & D). The following table is a summary of these properties.

Comps	Address	Year Built	Sales Price	Date of Sale	Adjusted Value	Acres Land	Total Living Area	Basement Finish
Subject	2928 Soutter Ave SE	1950	N/A	N/A	N/A	0.138	746	Slab
1	2756 Meadowbrook Dr SE	1941	\$86,800	Sep-15	\$57,700	0.194	720	365
2	2734 Dalewood Ave SE	1947	\$94,500	Feb-15	\$59,950	0.163	828	None
3	734 30th St SE	1946	\$96,000	Dec-14	\$61,350	0.154	696	544
4	714 34th St SE	1950	\$72,000	Apr-14	\$37,100	0.189	720	391
5	2719 Dalewood Ave SE	1954	\$89,850	May-14	\$53,300	0.151	743	None

All of the comparable properties were built around 75-years ago and are one-story frame homes with a detached garage like the subject property. All five comparables are superior in condition (normal or above-normal) as compared with the subject property's poor condition. *Id.*

Smith asserted she is familiar with all of the Board of Review's market comparable properties and there is no significant likeness between them and the subject property, pointing out they are much nicer properties and are not "slab" homes.

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 \$37,100 to \$61,350, with the subject property's current assessed value of \$49,500 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 .92 to 1.01, resulting in an increase in assessed value from \$46,500 for 2015 to \$49,500 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 \$49,500, which is \$3000 higher 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).

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

Order

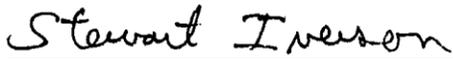
PAAB HEREBY AFFIRMS the subject property's January 1, 2016 assessed value as set by the City of Cedar Rapids Board of Review.

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

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