

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

PAAB Docket No. 2016-101-00245R

Parcel No. 14222-03004-00000

Patricia Smith (Pool Seal, LLC)

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 Pool Seal, LLC. Al Ehler, a residential appraiser with the City of Cedar Rapids Assessor's Office, represented the Board of Review.

The Pool Seal, LLC owns a residential property located at 215 17th Street NE, Cedar Rapids, Iowa. Built in 1905, the one-and-one-half story frame home is situated on a 0.064 acre lot. (BOR Cert p. 10 & 22).

The property's January 1, 2016 assessed value was set at \$46,600, allocated as \$11,000 in land value and \$35,600 in dwelling value. *Id.* The value changed from the previous year's assessment. On protest to the Board of Review, Smith 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. Smith 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 2775 square feet of land, a one-and-one-half story frame dwelling with 1082 square feet of gross living area and a full bath. (BOR Cert. pp. 9 & 22-26) The dwelling is considered to be in normal condition for the age of improvements with typical maintenance. *Id.*

Smith testified the subject property is a rental that is difficult to rent because it is located in a bad neighborhood, it has an older kitchen and bath, and needs a new roof. She contends the house is in poor condition because the tenants who will live in the neighborhood do not take care of it.

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. (Exs. C & D). The following table is a summary of these properties.

Comps	Address	Year Built	Sales Price	Adjusted Value	Acres Land	Garage	Total Living Area
Subject	215 17th St NE	1905	N/A	N/A	0.064	None	1082
1	1524 D Ave NE	1912	\$ 34,000	\$ 36,475	0.096	None	1280
2	207 17th St NE	1900	\$ 50,500	\$ 51,925	0.070	None	1103
3	1522 D Ave NE	1912	\$ 71,500	\$ 58,525	0.096	2-Detach	972
4	1645 D Ave NE	1890	\$ 35,950	\$ 16,150	0.167	1-Detach	1578
5	321016th St NE	1910	\$ 16,000	\$ 38,125	0.034	None	1125

All of the comparable properties were built over 100-years ago and are one-and-one-half story frame homes with a full bath like the subject property. Comparable 3 and 4 have garages unlike the subject and the other comparables. Comparable 3 and 5 are superior in condition (above-normal) as compared with the subject property's normal condition. *Id.*

Smith argued the Board of Review's comparable properties are too different from the subject property.

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 \$16,150 to \$58,525, with the subject property's current assessed value of \$46,600 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 downward trend from 2015 to 2016. *Id.* Subsequently, the map factor was adjusted from .70 to .65, resulting in a decrease in assessed value from \$49,400 for 2015 to \$46,600 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 \$46,600, which is \$2800 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 needed to submit evidence of the January 1, 2016 actual value, such as an appraisal, adjusted comparable properties, or a cost analysis. However, no evidence was submitted into evidence and instead relied solely on her testimony to support the over assessment claim. Therefore, we find Smith has not met her burden of proof.

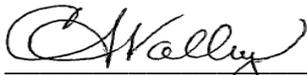
Order

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

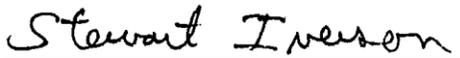
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with

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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City of Cedar Rapids Assessor by eFile