Electronically Filed
2018-12-12 10:08:38
PAAB

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

PAAB Docket No. 2018-029-10048M

Parcel No. 16-05-282-011

J. William Belger,

Appellant,

vs.

Des Moines County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 15, 2018. J. William Belger was self-represented. Des Moines County Attorney Amy Beavers represented the Board of Review.

J. William and Linda Belger own a multi-residential property located at 315 S 6th Street, Burlington. The property's January 1, 2018 assessment was set at $59,000. (Ex. B).

Belger petitioned the Board of Review contending his property was assessed for more than authorized by law and that there was an error in the assessment under Iowa Code section 441.37(1)(a)(2 & 4) (2018). The Board of Review modified the assessment to $44,600, allocated as $8500 in land value and $36,100 in dwelling value. (Ex. A-B).

Belger then appealed to PAAB reasserting his over assessment claim.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2018). 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 may consider any grounds under Iowa Code section 441.37(1) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-71.126.2(2-4). PAAB 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(3)(a). 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. *Id.*; *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).

Findings of Fact

The subject property is a brick two-story, four-family conversion built in 1868 with 4556 square feet of gross living area; a full unfinished basement; and two porches. The improvements are listed as an “OBSV” (observed) condition with 75% physical depreciation. The improvements have also been adjusted downward 40% for functional obsolescence, 30% for economic obsolescence, and 20% for other depreciation. The combined total depreciation/obsolescence applied to the cost new of the improvements is approximately 92%. (Ex. A).

Belger has owned the property since the mid-1980s. Belger testified the original 2018 assessment was a 67% increase from the prior assessment year. Even after the Board of Review acted to modify his 2018 assessment, he testified it is still a 26% increase from 2017, which he does not believe is reasonable.

Belger testified that two of the subject’s units are gutted and unlivable. County Assessor Matt Warner testified for the Board of Review and confirmed Belger’s testimony about the condition of the subject property and that two units are not habitable. Warner explained the observed condition listed on the property record card equates to a poor condition rating.

Belger noted he has only ever rented the two north units; current rents are set at $320 and $350 per month. In his opinion, the subject's neighborhood is in decline with a bad reputation resulting in few tenants interested in renting in the area. Therefore, he has not and does not plan to fix up the vacant units until such time as the City can turn the existing urban plight around.

On cross-examination, Belger stated he used to be a real estate broker. Although he did not know what amount he would list the property if offered for sale, he did not believe it could be sold for the current assessed value. He indicated he would need to hire an expert to determine its value.

Warner testified a re-valuation of all multi-residential property in Des Moines County occurred for the January 1, 2018 assessment.

The Board of Review submitted five comparable sales, which are summarized in the following table. (Exs. D-I).

Comparable	Sale Date	Sale Price	Gross Living Area (GLA)	No. of Units	SP/GLA	SP/Unit
1 - 501 N 3rd St	May-18	$110,000	3400	4	$32.35	$27,500
2 - 232 S 8th St	Jun-16	$120,000	3724	2	$32.22	$60,000
3 - 923 N 7th St	Jul-18	$57,000	3670	2	$15.53	$28,500
4 - 525 S Central Ave	Mar-17	$26,000	2448	5	$10.62	$5,200
5 - 109 S 6th St	Feb-17	$46,000	2993	3	$15.37	$15,333

Warner provided testimony about each of the comparable properties. He explained there are few multi-residential property sales in Burlington at any given time making it necessary to consider older sales and properties with fewer units. He believes the age, size, and construction quality of these sales are similar to the subject property.

Belger does not believe 501 N 3rd Street is located in a comparable neighborhood. Warner acknowledged this sale is located closer to downtown but he believes it has similar influences and is comparable to the subject property's neighborhood.

None of the sales were adjusted for differences that may exist between them and the subject property to establish a market value as of January 1, 2018. However, the subject property's assessed value per gross living area is $9.78 per square foot and its

assessed value per unit is $11,150. Both of these units of comparison are below or at the lower end of the unadjusted sales presented suggesting the subject property is not over assessed.

The Board of Review also submitted comparables to show the subject property is equitably assessed to similarly situated properties. (Exs. D, J-N). Equity is not a claim before PAAB at this time and we do not find it necessary to include an analysis of this evidence.

Analysis & Conclusions of Law

Belger contends the subject property is over assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), 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).

Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). The taxpayer bears the burden of proof to show his property is assessed for more than authorized by law. § 441.21(3)(b).

Belger did not offer any evidence of the subject property's market value as of January 1, 2018. Typically, market value is demonstrated with a competent appraisal or a comparative market analysis, considering at minimum the sales comparison approach to value. In cases where a sales comparison approach cannot be completed, other approaches may be considered such as the cost approach and/or income approach.

We note the assessment has considered the condition of the subject property as reflected by nearly 92% total depreciation/obsolescence applied to the cost new of the improvements.

Based on the evidence, we find Belger has not shown the subject property is assessed for more than authorized by law.

Order

PAAB HEREBY AFFIRMS the Des Moines County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2018).

Karen Oberman, Presiding Officer

Stewart Iverson, Board Chair

Camille Valley, Board Member

Copies to:

J. William Belger
308 S 6th Street
Burlington, Iowa 52601

Amy Beavers for Des Moines County Board of Review by eFile