

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

PAAB Docket No. 2017-051-00628R

Parcel No. 06-13-100-018

Alfred Davis,

Appellant,

vs.

Jefferson County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 14, 2018. Alfred Davis was self-represented. Attorney Brett Ryan represented the Jefferson County Board of Review.

Alfred Davis and Mary Barton own a residential property located at 2127 185th Street, Fairfield. The property's initial January 1, 2017 assessment was set at \$217,700. (Ex. C). Davis petitioned the Board of Review during the regular session and the Board of Review reduced the assessment to \$191,500. (Ex. A).

Jefferson County subsequently received an equalization order, which when applied to the subject property resulted in an assessment of \$205,000, allocated as \$58,900 to land value, and \$146,100 to dwelling value. (Ex. C). Davis petitioned the application of the equalization order to the Board of Review. The Board of Review denied the petition.

Davis then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). 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).

Findings of Fact

The subject property is a one-story home built in 2008. It has 1421 square feet of gross living area, some finish in the basement, an open porch, and a two-car detached garage. The site is 6.73 acres. (Ex. A).

Davis submitted a spreadsheet with a list of properties comparing the properties' 2016 sales prices to their 2018 assessed values. (Ex. 1). Davis did not adjust these properties for any differences between them and the subject to arrive at an opinion of value. Nor is there any other information about these properties in the record. For this reason, we give this evidence no consideration.

Davis surveyed eight other counties that received equalization orders to ascertain how many protests were modified or affirmed by the respective Boards of Review. He reported that he was told his assessment was not modified after the equalization order because "if one property owner had an adjustment then all properties in Jefferson County would have to be adjusted." (Ex. 2). Jefferson County Assessor

Steve Wemmie acknowledged it was his understanding that Davis' statement was correct. It was his belief the Board of Review chose not to modify the equalization petitions because by doing so it would potentially result in inequity compared to those properties that did not petition their equalized assessments.

In support of his claim that the equalization order causes his property to be over assessed, Davis submitted an appraisal completed by Margaret Coleman of Crossroads Appraisal Service, Mt. Pleasant. (Exs. 5 & 6). Coleman appraised the property as of April 2017 by developing the sales comparison approach. She concluded an opinion of market value for the subject property of \$189,000.

Davis testified the Board of Review was given the Coleman appraisal during its regular May session and at that time the Board of Review relied on it to lower the assessment from \$217,700 to \$191,500.

Wemmie acknowledged that the appraisal was presented to the Board of Review, and that he applied a 10% functional obsolescence adjustment to the subject property after he inspected it in May 2017; however, this adjustment alone does not explain the reduction by the Board of Review.

The Board of Review was critical of the Coleman appraisal because Davis had only timely filed five pages of the appraisal, which it asserts did not comply with the Uniform Standards of Professional Appraisal Practice (USPAP). (Ex. 5). Davis later filed the full appraisal. (Ex. 6). The Board of Review filed a Motion to Strike the full Coleman appraisal, which PAAB denied on November 13, 2018.

At hearing, the Board of Review reasserted its belief that Davis' failure to timely file the full appraisal was intentional and that the full appraisal should be excluded from the record. The Board of Review argued it chose not to obtain its own appraisal because of its belief that the partial appraisal was not competent under USPAP for various reasons. (Ex. F). For the same reasons outlined in our November 13 Order, we find the Board of Review's arguments unreasonable and meritless.

The Coleman appraisal relied on three sales and one active listing. (Exs. 5, G-J). Wemmie noted Comparable 4 was a listing at the time of the appraisal and has since

been removed from the market without selling. As such, we will not consider it. The three sales are outlined in the following table.

Comparable	Sale Price	Sale Date	Gross Living Area	Adjusted Sale Price
1 - 1987 270th St	\$170,000	Nov-16	1128	\$170,540
2 - 2022 Libertyville Rd	\$227,500	Jun-16	1848	\$207,690
3 - 2707 Ash Ave	\$210,000	Feb-16	1284	\$189,360

Coleman noted there was an extremely limited supply of sales data due the rural nature of this market. (Ex. 5, p. 2). She adjusted the sales for room count/gross living area; garages; porches/patios/etc.; and outbuildings. (Ex. 5, p. 2). She noted that she believed all sales were of similar quality and condition to the subject property. (Ex. 5, p. 2).

Coleman also estimated a depreciated cost value for the subject property of \$236,528, but she did not consider it in her reconciliation. Wemmie was critical of the appraisal asserting Sales 1 and 2 were significantly older than the subject property but were not adjusted for this difference. He reported Sales 1 and 3 are located on gravel roads, which he believes is inferior to the subject's location on a paved road. Further, in his opinion, Sale 3 is a lower quality construction compared to the subject property, which was not reflected in the appraisal report. Wemmie also believes the \$30,000 adjustment for Sale 3's outbuilding is not reasonable given its age and assessed value of \$11,000. (Ex. I, p. 4).

The Board of Review submitted five 2016 sales it believes are comparable to the subject property, which are summarized in the following table. (Ex. D).

Comparable	Sale Price	Gross Living Area
1 - 1987 270th St	\$170,000	1128
2 - 2394 Juniper Ave	\$276,000	2058
3 - 1199 Mint Blvd	\$250,000	1534
4 - 2022 Libertyville Rd	\$227,500	1848
5 - 2685 189th Blvd	\$185,000	1152

Wemmie testified the Board of Review's comparables are rural-residential, one-story homes like the subject property. We note the Board of Review included 1987 270th Street and 2022 Libertyville Road despite Wemmie's criticism of these sales being used in Coleman's appraisal. The Board of Review did not submit any adjustments of these sales for differences between them and the subject property or conclude an opinion of market value based on these sales.

The Board of Review also submitted a handwritten copy of Davis' costs to construct the subject property. (Ex. E). Davis' document indicates a cost of construction of roughly \$242,500. The Board of Review asserts several costs were not included, such as the cost of a driveway, landscaping, and potentially some labor costs. In hindsight, Davis testified he should have hired a contractor and that by failing to do so, he believes he over paid for the property.

Analysis & Conclusions of Law

Davis asserts the equalization order results in an overassessment of his property

In an appeal challenging the application of an equalization order, the claim is essentially that the valuation "will result in a greater value than permitted under section 441.21." *First State Bank v. Bd. of Review of Monroe Co.*, 424 NW.2d 441, 443 (Iowa 1988). Any adjustment by PAAB to the assessment "shall not exceed the percentage increase provided for in the department's equalization order." § 441.49(4).

The Board of Review submitted Davis' recollected estimate of costs of roughly \$242,500. It asserted property values have not decreased in Jefferson County, therefore the subject property would have a market value of at least this estimate. Testimony from both parties indicates the costs may not be complete or accurate. Davis believes because he did not enlist the services of a contractor he overpaid for many of the components of construction. We do not find costs estimated by the homeowner eight years after construction a reliable indicator of the subject property's current market value. Importantly, the costs have not been depreciated. We give this evidence no consideration.

Davis submitted the Coleman appraisal, which concluded a market value of \$189,000 as of April 2017. The Board of Review was critical of the comparable properties that Coleman relied on to arrive at her value conclusions. However, we find this criticism lacks merit because it offered two of the same sales as comparables to the subject property. While the Board of Review was critical of some of Coleman's adjustments or lack thereof, it offered no evidence of what the correct adjustments should be.

The Board of Review argued the partial Coleman appraisal Davis originally submitted was insufficient for it to rely on and violated USPAP requirements. First, we note the Board of Review is a recognized body of expertise. As such, we do not find it worthy of belief that it could not meaningfully prepare for the PAAB hearing based on the shortened appraisal it had timely received. Additionally, its argument that the shortened appraisal violated USPAP and should not be relied upon is mislaid. It is the appraiser that is required to follow USPAP. Here, only several pages were initially provided to the Board of Review and this, by itself, does not make the whole appraisal non-compliant with USPAP.

Importantly, the Board of Review has cited no provision of Iowa law dictating that PAAB may only rely upon USPAP compliant evidence. Iowa Code section 17A.14 states that findings "shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial." Additionally, Section 441.21 stipulates that assessments should be, first and foremost, based on sale prices of comparable properties in normal transactions. The five pages of Coleman's appraisal Davis initially provided identified the comparable properties on which she relied, the adjustments thereto, and described her reconciliation to a final value estimate. Regardless of the choice the Board of Review made after receiving the shortened version of the appraisal, we think it is the type of evidence that is consistent with section 441.21 and on which PAAB can reasonably rely.

We find, in this case, the most persuasive evidence in the record of the subject property's fair market value is the Coleman appraisal that concluded a market value of

\$189,000. Based on this, we find Davis has supported his claim the application of the equalization order causes his property to be over assessed. PAAB can only remove the value added by the application of the order; thus, the subject property's correct market value for 2017 is \$191,500.

Order

PAAB HEREBY MODIFIES the Jefferson County Board of Review's action and orders the subject property's value be set at \$191,500 for the January 1, 2017 assessment.

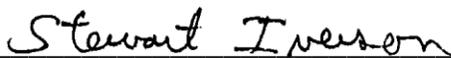
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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 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.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

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