

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

PAAB Docket No. 2017-037-00013C

Parcel No. 11-05-301-016

**Lee Horbach (TKJ, LLC),**

Appellant,

**vs.**

**Greene County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 14, 2017. Lee Horbach, owner of TKJ, LLC, was self-represented. Greene County Chief Deputy Assessor Adam Smith represented the Board of Review.

TKJ, LLC owns a commercial property located at 200 W Central Avenue, Jefferson, Iowa. The property's January 1, 2017 assessment was set at \$227,600, allocated as \$31,700 in land value and \$195,900 to improvement value. (Ex. A).

Horbach petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property and was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a, b). The Board of Review modified the assessment to a total value of \$216,200. (Board of Review Decision).

Horbach reasserts his claims to PAAB.

We note that subsequent to the appeal, the property's assessment was equalized by application of an order from the Iowa Department of Revenue. Its assessment is now \$235,700.

## 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).

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 is a one-story, single-tenant office building constructed in 2004. It has 1791 square feet of gross building area. The site is 0.350 acres. (Ex. A).

Horbach explained that he and his wife built the subject property in 2004 for \$191,500. He has operated an insurance agency out of it since that time. He indicated Jefferson’s population is 4500, and Greene County’s total population is 10,000. In his opinion, offices in Jefferson are not in high demand and there are four to six office buildings currently for rent on the town-square. For these reasons, he believes the value of his property is depreciating rather than appreciating.

Horbach explained there are very few sales of office buildings in Jefferson. He submitted three properties he believes are comparable to his, which are summarized in the following table. (Exs. 2-4). All of the properties are single-tenant professional office buildings like the subject property.

Comparable	Gross Building Area (SF)	Year Built	Assessed Value
Subject	1791	2004	\$216,200
1 - 101 N Grimmell Rd, Jefferson	2155	1979-2006	\$177,000
2 - 108 N Vine St, Jefferson	2412	1978	\$166,000
3 - 1524 10th Ave N, Humboldt	1521	2002	\$185,930

Horbach explained Comparable 1 had a substantial addition and remodeling in 2006. Comparable 2 is older with more depreciation but it is also larger and has a full basement. Both of these properties are assessed for less than his.

Horbach believes Comparable 3 is the most similar to the subject property and located in a similar community in Humboldt County. It sold in 2007 for \$140,000 and while its assessment is higher than its sale price, it is still assessed for less than his property.

Horbach also testified that he spoke to a local appraiser, who told him the subject property should be on a fifty-year scale of depreciation, yet Horbach does not see that level of depreciation considered in the assessment. Based on the conversation with his appraiser, Horbach believes the correct fair market value for the subject property is \$175,000. The property record card indicates the improvements have 13% depreciation applied. (Ex. A, p. 3).

The Board of Review provided no witnesses and did not submit any evidence.

## Analysis & Conclusions of Law

Horbach asserts his property is both inequitably assessed and over assessed.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). There is no evidence demonstrating the Assessor is applying an assessing method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing:

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

*Id.* at 711.

The *Maxwell* test provides inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* In this analysis, only comparables from the same jurisdiction may be considered. For this reason, Horbach's Comparable 3 would not suffice as it is located in a different county.

Because the *Maxwell* test requires a showing of the subject property's actual market value, and Horbach's overassessment claim requires the same showing, we forgo a further equity analysis and turn to his overassessment 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).

Horbach submitted three properties that have assessed values less than his. Horbach believes the properties he submitted are more reasonably assessed and demonstrate that his property is over assessed. However, none of the properties have recently sold, nor did Horbach provide a credible estimate of the current market value of the properties. It is not sufficient to simply compare assessments to succeed in an over assessment claim. This type of claim is most often supported with a professional appraisal or comparable sales adjusted for differences between them and the subject property.

Viewing the record as a whole, we find Horbach failed to show the subject property is inequitably assessed or that it is over assessed.

### **Order**

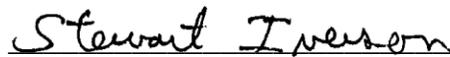
PAAB HEREBY AFFIRMS the Greene County Board of Review's action.

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 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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Karen Oberman, Presiding Officer

  
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Stewart Iverson, Board Chair

  
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Camille Valley, Board Member

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Lee Horbach by eFile

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