

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

PAAB Docket No. 2017-077-00613R

Parcel No. 310/00445-000-000

**Richard Nelson,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 22, 2018. Richard Nelson was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Nelson owns a residential property located at 4625 NW Lovington Drive, Des Moines. Its January 1, 2017 assessment was set at \$174,200, allocated as \$57,400 in land value and \$116,800 in building value. (Ex. A).

Nelson petitioned the Board of Review claiming his property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition. Nelson 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).

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 two-story home built in 1935. It has 3654 square feet of gross living area, multiple patios, an enclosed porch, and a 2592 square-foot attached garage. There is no basement. The improvements are listed as 5+05 grade (below-average quality), in below-normal condition, with a 25% functional obsolescence applied due to its interior layout. The site is 2.272 acres. (Ex. A-B).

Nelson purchased the property in 2003 for \$160,000 but he noted the purchase price included \$10,000 for a new septic system. In his opinion, the true purchase price was \$150,000.

Prior to his purchase, a swimming pool had been removed from the site but it remained listed on the assessment. Nelson testified he appealed his assessment in

2015, at which time the swimming pool was removed from the listing and some other errors were corrected.

Nelson also explained the property has three rooms totaling 650 square feet that are unheated and cannot be used year round. While he recognizes the home is large, he also stated there it has significant deferred maintenance. He believes the actual value is the \$154,600, which was the prior year's assessment.

The Board of Review offered exhibits into the record but did not call any witnesses.

### **Analysis & Conclusions of Law**

Nelson asserts his 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)(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).

Nelson did not submit any evidence of the market value of his property as of January 1, 2017. To succeed in a claim of over assessment, the property's market value is typically demonstrated with a competent appraisal or a comparable market analysis.

Because Nelson testified that 650 square feet of the home lacks a heating source and there is deferred maintenance throughout the property, we suggest he contact the Assessor's Office for the 2018 assessment to request an inspection and confirm his property is properly listed and valued.

Viewing the record as a whole, we find Nelson failed to show his property is over assessed.

### **Order**

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

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

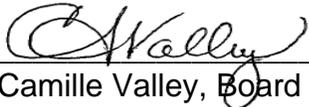
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

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.



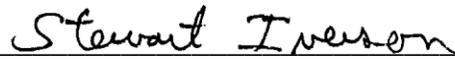
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Karen Oberman, Presiding Officer



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Camille Valley, Board Member



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Stewart Iverson, Board Chair

Copies to:

Richard Nelson by eFile

Polk County Board of Review by eFile