

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

PAAB Docket No. 2017-078-10183C

Parcel No. 7544 34 203 004

PL Storage Solutions LLC,

Appellant,

vs.

Pottawattamie County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 6, 2018. Petra Ladd, owner of PL Storage Solutions LLC (PL Storage), was represented by Steven Butler. Assistant County Attorney Leanne Gifford represented the Pottawattamie Board of Review.

PL Storage owns a commercial property located at 106 S 27th Street, Council Bluffs, Iowa. The property's January 1, 2017 assessment was set at \$193,400, allocated as \$65,900 in land value and \$127,500 to improvement value. (Assessment Notice).

Ladd petitioned the Board of Review claiming the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(b). The Board of Review modified the assessment to \$185,000, allocated as \$65,900 in land value and \$119,100 to improvement value. (Decision, Ex. A). Ladd reasserted her claim 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 0.53-acre site with a multi-building mini-storage facility built in 1982 and 1990. There are approximately forty-eight storage units, and 9472 total square feet of gross building area. The buildings are listed in below-normal condition. Yard improvements include 11,550 square feet of paving and 340 lineal feet of chain-link fencing. (Ex. A).

Ladd and the late Bill Pelton, former PL Storage manager, expressed that the subject property's January 1, 2017 assessed value was an unreasonable increase (45%) over its 2016 assessment of \$128,800. They believe it is unreasonable because of the subject property's undisputed below-normal condition, as well as the current local market conditions. They noted a lot of new construction had occurred, and these facilities are setting rental rates below market in order to attract renters. In their interrogatory responses, they stated the subject property's correct value should be \$141,680, which reflected a 10% increase over its 2016 assessed value.

Butler argued that any increase in the subject property's assessed value will put an undue hardship on Ladd. He asserts the resultant increased property tax burden will cause the subject property to be upside down financially, forcing Ladd to consider

closing the business. Butler contends the subject property is not even worth half of its modified 2017 assessed value of \$185,000.

After researching the market, Butler noted national mini-storage values have been dropping 10% to 20%. He believes this is what is occurring in the Council Bluffs' market as well. He noted there are storage facilities everywhere in the local market that are filled to about 91% capacity. Butler predicts raising the subject property's rental rates will cause its occupancy rate to decline; contending there is not a lot of wiggle room in setting rental rates because the gap between the subject property's rates and the rates of much nicer facilities is very narrow.

PL Storage indicated in its interrogatory responses no new construction occurred during the two years leading up to the January 1, 2017 assessment; only repairs of damage caused by vandals, and routine repairs costing less than \$50 per occurrence. (Ex. C, Interrogatories 3 & 4). Vandals' have crumpled the metal roll up doors, shattered the wooden door frames, damaged door roller mechanisms and locks. The cost of each new door, not including installation, is estimated at \$550. Butler believes the subject property is in a high-crime area, noting there were three break-ins at the subject's site just within the past weekend.

The subject property also suffers from a multitude of other problems. (Ex. D, Interrogatory 13). These problems include: leaking roofs, termites, lack of eaves and downspouts, deteriorating drive aprons, and flooding of ten to twelve storage units caused by storm water runoff from neighboring parcels' whenever there is an inch or more of rain.

The Board of Review contends comparable sales are not available for properties similar to the subject property, concluding a market approach to value will not work. (Ex. E). It also stated the cost approach is troublesome because the subject's improvements are in below-normal condition, making the amount of depreciation difficult to determine. Therefore, it felt it needed to consider the income approach to value in order to determine whether the subject property was over assessed.

Butler testified that the subject property earns about \$0.31 per square foot, noting this is below the national average of \$1.00 per square foot. He testified that its monthly

rental income is about \$2383 per month or \$28,596 per year. He argued it would take over six years for its income to equal its assessed value, believing the assessed value should not exceed three years of income.

The Board of Review contends it never received sufficient information from PL Storage so it could develop the income approach to value. PL Storage explained that its computer program would not allow the creation of distinct profit and loss statements, only summaries of all of its storage facility locations. (Ex. F).

Analysis & Conclusions of Law

PL Storage asserts its 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).

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).

We find the testimony and interrogatory responses credible and agree damage from frequent break-ins, deferred maintenance, and new competing storage facilities driving down market rental rates can have an impact on a property's value. However, PL Storage failed to provide evidence of the subject parcel's January 1, 2017 market value. This is required to succeed in a claim of over assessment. 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.

As noted above, the taxpayer bears the burden of proving the subject's market value. § 441.21(3). Because there is insufficient evidence in the record showing how the issues described have impacted the subject property's value, we are unable to find the subject parcel is over assessed.

Ladd may want to schedule an inspection as soon as possible to ensure the subject property is properly listed and valued for the next assessment cycle, given the description of the declining condition of the property's improvements and its location. She might also find it helpful to obtain a copy of the Assessor's cost sheet for the subject property, which typically gives a breakdown of each calculation made to arrive at the subject property's assess value (e.g., the percentage of depreciation applied).

Order

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

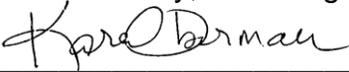
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

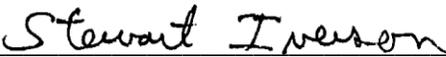
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Camille Valley, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

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