

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

PAAB Docket No. 2017-077-10273C

Parcel No. 181/00161-019-000

ABC Treadco Inc.,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 7, 2018. Carla Higgins with CMI Strategic RET, LLC represented ABC Treadco, Inc. Assistant County Attorney Mark Taylor represented the Polk County Board of Review.

ABC Treadco owns a commercial property located at 1001 SE Lorenz Drive, Ankeny, Iowa. The property's January 1, 2017 assessment was set at \$493,000, allocated as \$377,900 in land value and \$115,100 to improvement value. (Ex. A).

ABC Treadco 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 \$428,000, allocated as \$302,000 in land value and \$126,000 to improvement value. (Decision, Ex. A). ABC Treadco then reasserted its 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 4.82-acre site with a truck terminal warehouse built in 1977. The building has 14 dock-high roll up doors, a small office and reception area. Yard improvements include 18,509 square feet of paving and chain-link fencing. (Ex. A).

The record includes two appraisals. ABC Treadco submitted an appraisal completed by Richard Correll of Correll Commercial Real Estate Services, Indianapolis, Indiana. (Ex. 1). The Board of Review submitted an appraisal completed by Russ Manternach of Commercial Appraisers of Iowa, Inc., West Des Moines. (Ex. B). Both appraisers are qualified to appraise the subject property and testified at hearing. The following table summarizes the appraisers' approaches to value and their respective conclusions.

Appraiser	Sales Approach	Income Approach	Cost Approach	Reconciled Opinion of Value
Correll	\$250,000	Not Developed	Not Developed	\$250,000
Manternach	\$460,000	\$460,000	NA	\$460,000

Correll Appraisal

Correll only developed the sales comparison approach to value. In his report, Correll stated that he did not find the cost approach useful "due to the age of the

improvements,” and testified that because the subject property is owner occupied the income approach is not necessary. (Ex. 1, p. 27).

The subject site is nearly 5 acres and improved with an industrial truck-terminal. Correll argued the site size, coupled with the small size of the improvements, cause there to be surplus land to the rear of the site. Aerial photographs show improvements are located on the north half of the site fronting SE Lorenz Drive, whereas the southern half consists of trees and green space. (Ex. 1, p. 24). In Correll’s opinion, because the rear portion of the subject site has remained unimproved for over 40-years, and the current users “obviously don’t need it and don’t use it” the highest and best use (HBU) of the subject site as improved is for its continued existing use as an industrial truck-terminal. (Ex. 1, p. 26). Despite this opinion, Correll testified that if the site were vacant the entire site could be more fully used; and that as currently improved, the rear portion of the site is underutilized.

In his sales comparison analysis, Correll considered four industrial properties that he asserts are similar to the subject property. (Ex. 1, p. 28-40). He indicated he was attempting to value the property using owner-occupied comparables. The following table is a summary of the data he presented.¹

Comparable	Sale Date	Sale Price	Site Size (Acres)	Building Size (SF)	SP/SF	Adjusted SP/SF
Subject			4.82	4,400 ²		
1 - SE Cortina Dr, Ankeny	Oct-13	\$165,000	0.46	4,320	\$38.19	\$61.11
2 - E Fleming, Des Moines	Feb-18	\$185,000	0.32	5,000	\$37.00	\$57.53
3 - SE Hulsizer Rd, Ankeny	Mar-18	\$260,000	1.36	7,320	\$35.52	\$56.48
4 - NE 58th Ave, Des Moines	Sep-15	\$225,000	0.88	5,760	\$39.06	\$56.64

The sales are all industrial properties built between 1970 and 1986 but none are truck terminals. Correll made an upward 20% adjustment to Sale 3 for age/condition. He asserts it is inferior to the subject property, but provided no explanation of how it is inferior to the subject property. He identified it as average condition like the subject and it is only seven years older. (Ex. 1, p. 39).

¹ The Board of Review submitted rebuttal evidence of errors in Correll’s reported data.

² The Board of Review argues the correct size of the subject’s building is 3800 square feet.

Three of the sales have less than 1-acre of site and none have surplus land. Correll adjusted all of the sales upward by 39% to 60%, equating to roughly a \$100,000 increase to each. (Ex. 1, p. 38-39). Correll provided no explanation of how he arrived at this adjustment. At one point, he testified that he did not review any comparable land sales in arriving at his opinion, then later he testified that he “looked at listings of land in the broader region” but because the subject’s immediate area is fully developed there were no land sales and he did not do a land comparison analysis. Based on the lack of sales, he testified he relied on his experience in determining his adjustment of \$100,000. Despite no analysis of land sales at any time during the development of his appraisal, Correll testified he was “confident” its current use is the HBU – because that is how it has been used for the last 40 years. However, he acknowledged it could be sold for redevelopment.

Based on these sales, Correll determined a range of value of roughly \$250,000 to \$270,000. He selected the lower end of this range and concluded an opinion of value of \$250,000 as of January 1, 2017. (Ex. 1, p. 40). The Board of Review noted that his opinion of value, which includes the improvements, is less than the \$302,000 assessed value of the subject site.

Correll reported all the sales as cash transactions and testified he did not contact buyers or sellers of any of the transactions to verify the sale prices or the terms of the transactions.

Correll reported Sale 2 sold in February 2018 for \$185,000 in a cash transaction. (Ex. 1, p. 31 & 39). The Board of Review submitted a summary of the sale, its property record card, a warranty deed, and real estate contract reflecting that the property sold on contract twice. A sale occurred in December 2012 for \$185,000 and it sold again in January 2016 for \$300,000. (Ex. C).

Correll reported Sale 4 sold in September 2015 for \$225,000 in a cash transaction. (Ex. 1, p. 35 & 39). The Board of Review submitted the property record card and a warranty deed for this sale. This property sold on contract in August 2014 for \$225,000 from David and Debbie Nicholson to A-Plus Trucking LLC. It sold again by deed for \$262,500 in September 2015 from A-Plus Trucking LLC to Cummings Property

Management IV. (Ex. D). Exhibit D reports the Cummings Property Management “completely gutted the building.”

Manternach Appraisal

Manternach developed all three approaches to value.

Manternach described the subject property as having a large site with a high land to building ratio. Less than half the site is used for the current improvements. He noted truck terminals have larger land-to-building ratios than other industrial sites because the land is necessary for maneuvering and storing trucks. Manternach testified that Ankeny is a growing community and industrial property has seen increasing rents and values coupled with decreasing capitalization rates.

Manternach explained given its location, zoning, and surrounding uses, the HBU of the subject site would be for continued industrial use. However, because of the age and condition of the subject’s improvements, it is necessary to estimate the land value as vacant in order to determine the HBU as improved.

Manternach determined 2.65 acres of surplus land, which could be used to expand the existing use, it could be held for redevelopment purposes, or it could be sold to an adjacent land owner to incorporate it into their operation. Manternach analyzed six land sales, three from Ankeny and three in the greater Des Moines area. (Ex. B, p. 42). He determined a land value for the subject site, as vacant, of \$440,000. He recognized the surplus land had a lower contributory value and allocated \$173,000 (rounded) to the surplus land. He explained he determined a value as improved of \$460,000 indicating that while the existing improvements continue to add value, this may change and the property could eventually be redeveloped. Additionally, because the improvements contribute minimal value to the site and suffer from substantial amounts of accrued depreciation he chose not to develop the cost approach. (Ex. B, p. 41 & 58).

Manternach relied on four industrial properties located in Des Moines. Two of the properties are truck terminals like the subject property. (Ex. B. p. 46). Manternach adjusted the properties for market conditions, building size and finished area, condition, and land-to-building ratio. He excluded the subject’s surplus land for this analysis. (Ex. B, p. 48).

ABC Treadco raised concerns about Manternach's use of leased fee sales. In response, he explained that he would have adjusted the sales if the leases impacted value. Manternach testified that Sale 1 had a short-term remaining lease and the buyer purchased the property to owner-occupy. In his opinion the lease did not impact the value and therefore did not adjust the sale price. Manternach reported that Sale 3 had a short-term lease in place for a portion of the building but it was at near market rent and he did not believe it warranted an adjustment. He further reported the tenant that was occupying that space has since vacated the building and the owner intends to occupy the entire building.

Manternach concluded an opinion of value of \$285,000 for the improved portion of the subject property, to which he added his value of \$173,000 for the surplus portion of the site. His final opinion of value for the subject property by the sales comparison approach was rounded to \$460,000. (Ex. B, p. 49).

Manternach also developed the income approach to value. Similar to his sales comparison analysis, he excluded the surplus land from his analysis and later added it to his conclusion. He estimated a market rent of \$7.00 per square foot for the subject property. After considering expenses, he concluded a net operating income (NOI) of roughly \$22,000. (Ex. B, p. 54).

Manternach extracted capitalization rates from the market, developed a mortgage equity analysis, and considered investment surveys. He estimated a loaded capitalization rate of 7.75% and concluded an opinion of value by the income approach of \$285,000 rounded. He then added in the value of the surplus land to arrive at a final conclusion of value of \$460,000 rounded. (Ex. B, p. 55-57).

Manternach opined a final conclusion of value of \$460,000 as of January 1, 2017. (Ex. B, p. 58). Manternach's testimony was convincing and we found him to be a knowledgeable and credible witness.

After testifying about his report, Manternach provided an oral review of Correll's report. Manternach was critical of Correll's comparable sales. Noting the land-to-building ratio of the sales were significantly lower and not comparable to the subject

property. He notes that if Sale 2 were to be considered, the 2016 sale should have been reported and analyzed, not the more dated 2012 sale as reported by Correll.

Manternach noted Sale 3 is not similar to the subject property as can be evidenced by the photo submitted by Correll that indicates its foundation is at ground level. We note this is true of all of the Correll comparable properties. (Ex. 1, p. 30, 32, 34 & 36). Manternach explained the subject is a truck-terminal with a raised foundation allowing trucks to dock. Again, Manternach explained Sale 4 had a more recent sale that should have been considered rather than the dated sale Correll reported.

Analysis & Conclusions of Law

ABC Treadco asserts its property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). ABC Treadco bears the burden of proof. § 441.21(3).

In an appeal alleging the property is over assessed, 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). Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956); *White v. Bd of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Although the record shows some variance between the land and improvement allocations amongst the assessment and the appraisals, our ultimate concern is with the subject's total value.

ABC Treadco submitted Correll's appraisal in support of its claim, concluding a value of \$250,000. The Board of Review asserted Correll's appraisal was riddled with errors. The Board of Review's evidence shows Correll made significant errors in the reporting of sale prices and sale dates and he testified he made no attempt to verify information with any party involved in the transaction.

Even if we could look past the reporting errors in the sale prices and sale dates of his comparable properties, we do not find any of them to be reasonably comparable to the subject property. None are used as a truck terminal and they do not appear to

have raised docks like the subject, which enhances the ease of loading and unloading and thereby the utility of the property. This and other differences between the subject and the comparables warranted adjustments, but Correll did not offer adequate, supported adjustments. Therefore, we do not find his opinion of value reliable or persuasive.

The Board of Review submitted Manternach's appraisal that supports the 2017 assessment. We find Manternach's report to be based on well-researched data, and his testimony was persuasive, demonstrating his knowledge and expertise.

Viewing the record as a whole, we find the ABC Treadco failed to show its 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.



Camille Valley, Presiding Officer



Karen Oberman, Board Member

Copies to:

Strategic Real Estate Tax Solutions
c/o Carla Higgins
5401 S East Street, Suite 103
Indianapolis, IN 46227

Mark Taylor for Polk County Board of Review by eFile