

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

PAAB Docket No. 2019-063-00026R

Parcel No. 1637650075

Mark Bishara,

Appellant,

vs.

Marion County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 7, 2019. Mark Bishara was self-represented. The Marion County Board of Review was represented by Ross Gibson but did not participate in the hearing.

Mark and Lynn Bishara own a residential property located at 301 Utrecht Laan, Pella. The property's January 1, 2019, assessment was set at \$549,860, allocated as \$65,480 in land value and \$484,380 in dwelling value. (Ex. B).

Mark Bishara petitioned the Board of Review contending the property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). The Board of Review lowered the assessment to \$499,800, allocated as \$62,210 in land value and \$437,770 in dwelling value. (Ex. B).

Bishara reasserted his claim to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* 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 the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject is a two-story home built in 2005. The property is located in the Bos Landen golf course development. The dwelling has 3384 square feet of gross living area and 1000 square feet of living-quarter quality finish in the walk-out basement, with an open porch, a concrete patio, a wood deck, a three-car attached garage, and two fireplaces. It is listed in normal condition with a 2+00 high-quality grade. The site is 0.42 acres. A 5% topography adjustment was applied to the land. (Ex. A).

Bishara purchased the subject site in October 2003 for \$69,900. (Ex. A).

Bishara submitted an appraisal prepared by Randal Steenhoek for ad valorem tax purposes valuing the property retrospectively as of January 1, 2019. Steenhoek viewed the property in May 2019. After measuring the dwelling, he reports a gross living area of 3152 square feet and 1834 square feet of basement finish, which is different than listed on the property record card.

Steenhoek developed the sales comparison approach, concluding a value opinion of \$470,000. He concluded that the cost and income approaches to value were

not applicable to this assignment. He reports a growing housing market with balanced supply and demand and increasing prices.

Steenhoek analyzed five sales and one active listing in his sales comparison approach. The following table summarizes his comparable properties.

Address	Year Built	Gross Living Area (SF)	Sale Date	Sale or Listing Price	Adjusted Value
Subject	1834	3152	NA	NA	NA
1-421 Bos Landen Dr	1203	3512	11/2018	\$569,900	\$493,700
2-2408 Drenthe Laan	1461	3365	1/2018	\$461,500	\$463,500
3-2506 Scholte Straat	1506	2694	1/2019	\$430,000	\$464,300
4-2626 Hemel Dr	1656	3570	8/2017	\$469,000	\$459,300
5-2621 Hemel Dr	1200	3373	8/2017	\$470,250	\$475,950
6-2605 Hemel Dr	1740	3758	Listing	\$490,000	\$447,400

Steenhoek reports that all of the comparables are located in the Bos Landen subdivision like the subject. Additionally, nearly all amenities and features of the subject are bracketed by the comparables. The subject has more basement finish than any of the comparables but has the smallest site size. No adjustments were made for differences in garage storage. The comparables appear to be similar in design and layout, quality, and other features, and the adjustments he made appear reasonable.

Steenhoek's unadjusted sale and list prices range from \$430,000 to \$490,000. After adjusting the comparables for differences, they indicate a range of value for the subject range between \$447,400 and \$493,700. The subject's assessed value is higher than all of the comparables before and after adjustments.

Comparable 6 was listed for \$490,000 when Steenhoek completed his appraisal. Bishara reported this property has since sold for \$460,000 in August 2019. (Ex. 2). Applying Steenhoek's adjustments to this sale price would indicate an adjusted value of \$432,100.

Bishara testified that during the past five years, the most expensive sale in the development was Steenhoek's Sale 5, which sold for \$470,250. He believes this supports his assertion that his property is over assessed. (Ex. 2).

The Board of Review only submitted the property record card, Board of Review decision, and Bishara's original protest as required by Rule. Iowa Admin. Code R. 701–126.7(3)(d)(1-3). It did not submit any evidence to support the assessment or to refute the Steenhoek appraisal.

Analysis & Conclusions of Law

Bishara asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). If PAAB determines Bishara has established the grounds for their protest, then PAAB must make an independent determination of the property's correct value based on all of the evidence. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 397 (Iowa 2009) (citations omitted).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. Iowa Code §441.21(3)(b)(2) (2019). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." *Id.* Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision*, 457 N.W.2d at 597. "[A]bnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors

which distort market value” § 441.21(1)(b). Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, discounted purchase transactions, or purchases of adjoining land or other land to be operated as a unit. *Id.*

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783 (emphasis added). If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sales prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Id.* (other citations omitted).

Bishara submitted the Steenhoek appraisal concluding an opinion of market value of \$470,000 for the subject property. The appraisal was developed with the sales comparison approach to value and complies with the statutory scheme. Moreover, the properties used in the appraisal were all located in the subject’s subdivision and possess features similar to, or bracketing, the subject. The Steenhoek appraisal shifts the burden to the Board of Review to uphold its valuation.

The Board of Review did not offer testimony or any additional evidence in support of the 2019 assessed value.

Based on the foregoing, we conclude the Board of Review has failed to uphold its burden. Further, we conclude the appraisal is the most credible evidence in the record of the subject’s market value as of the assessment date.

Order

PAAB HEREBY MODIFIES the Marion County Board of Review's action and orders the subject property's January 1, 2019, assessment be set at \$470,000.

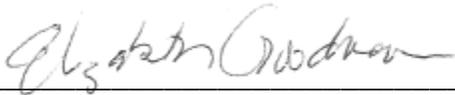
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

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 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

Mark Bishara by eFile

Marion County Board of Review by eFile

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