

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

PAAB Docket No. 2019-008-00125C

Parcel No. 088426334282035

**Boone Bank & Trust Co.,**

Appellant,

vs.

**Boone County Board of Review,**

Appellee.

---

**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 11, 2019. Attorney Michael Tungesvik represented Boone Bank & Trust Company. Boone County Attorney Daniel Kolacia represented the Board of Review.

Boone Bank & Trust Company (Boone Bank) owns a commercial property located at 1326 S Story Street, Boone. The property's January 1, 2019, assessment was set at \$348,196. (Ex. Y).

Boone Bank petitioned the Board of Review claiming the assessment was not equitable with the assessments of other like properties and the property was assessed for more than the value authorized by law under Iowa Code section Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review modified the assessment to \$324,321, allocated as \$114,610 in land value and \$209,711 in improvement value. (Ex. A).

Boone Bank then reasserted these claims to PAAB and added the claim of error in assessment. Iowa Code § 441.37(1)(a)(1, 2 & 4). (Appeal & Order Granting Motion to Amend Appeal).

## Findings of Fact

The subject property is a branch bank built in 1969 with an addition built in 1986. It has 2025 square feet of gross building area (GBA) and a 728-square-foot covered drive-through teller lane and covered drive-through ATM lane. There is also a bank vault and night deposit drop, but the assessment assigns no value to the night deposit. In addition to physical depreciation, the subject is adjusted 5% for functional obsolescence and 20% external obsolescence. The property record card indicates the subject has 178 feet of frontage and is 157 deep, for a total site size of 27,946 square feet. The property is also improved with 15,200 square feet of paving. Notes from an inspection included on the property record card state the property was most recently remodeled in 2002 with mechanical upgrades in 2002 and 2015. (Ex. A).

Jeffrey K. Putzier, President and CEO of Boone Bank and Trust Co., testified on its behalf and provided a history and background of the subject property's operations and the current state of the banking industry. He testified three bank branches in Boone have closed over the last 15 years. (Exs. 5 & 6). Most recently, a US Bank branch closed on South Marshall Street and is currently listed for sale for \$265,000. Putzier testified business transactions have declined at the subject property specifically and at most branch banks in general over the past few years. He believes the availability of on-line banking has decreased the need for branch banks. He testified some customers did not notice the subject property had closed on Saturdays for nearly a year because they seldom visit the branch. Because of this decline in business at branch banks, Putzier asserts the demand for branch banks have declined and likewise their market value. He testified they are currently considering closing the subject branch. Putzier did not opine a value opinion for the subject property. On cross-examination, Putzier testified the area near the subject property on South Story Street has recently seen some commercial redevelopment with new businesses and relocated businesses. He testified there is a credit union located near the property and a new bank was recently constructed nearby.

Paul Overton, Boone County Assessor, testified regarding the subject property and market conditions in Boone County. He stated commercial property was raised approximately 8% for the 2019 revaluation due to analysis showing an assessment/sale

ratio of 92%. The Department of Revenue's equalization study showed a median ratio of 0.922 and 2018 commercial sales in Boone County showed a median ratio of 0.918. (Ex. G & J). He asserts this demonstrates commercial properties in Boone County were undervalued.

Much of Overton's testimony pertained to the subject's site size. He stated GIS information shows a larger site size than what is listed on the property record card. Conversely, a 1966 survey in the record shows a smaller site size than what is listed on the property record card. (Ex. 2).

Boone Bank argues the subject's site is approximately 137 to 140 feet from east-to-west and 176 feet from north-to-south based on the warranty deed and survey. (Ex. 2 & 3). This would result in a site size of roughly 24,500 square feet, which is almost 3500 square feet less than reported on the property record card. Overton testified he had contacted Ed Higgins with the City of Boone who utilized GIS mapping information and concluded a larger site size for the subject than identified on the property record card. Boone Bank was critical of the GIS mapping information. They assert the information contained on the survey matches the dimensions for surrounding properties and the subject property is the only property that does not match the survey. (Exs. R & O). Overton stated he now believes a problem with the site area exists and should be studied further.

We note the subject is valued based on an effective front foot methodology. (Ex. A); See 2008 IOWA REAL PROPERTY APPRAISAL MANUAL 2-6 to 2-23, *available at* [https://tax.iowa.gov/sites/default/files/idr/documents/2LANDVALUATIONSECTION\\_0.pdf](https://tax.iowa.gov/sites/default/files/idr/documents/2LANDVALUATIONSECTION_0.pdf). While there is some dispute about the depth of the property from east-to-west, there is no disagreement about the north-to-south frontage on South Story Street. When valuing land on a front foot basis, the parcel's depth is accounted for by applying a depth factor. Depth factors are premised "on the observation that the front section of the lot is more value on a unit basis than the rear portion. As depth increases, the unit value decreases." INT'L ASSOC. OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION 183 (3d ed. 2010).

The record includes two appraisals. Boone Bank submitted an appraisal completed by Ted Frandson, MAI, CCIM, Frandson & Associates, L.C., Des Moines, Iowa. (Ex. 1). The Board of Review submitted an appraisal completed by Dennis Cronk, Cook Appraisal, Iowa City, Iowa. (Ex. W). Both appraisers are qualified to appraise the 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	Final Opinion of Value
Frandson	\$217,000	Not Developed	Not Developed	\$217,000
Cronk	\$265,000	Not Developed	\$285,000	\$270,000

Frandson Appraisal

Frandson utilized the site survey supplied by Boone Bank to determine the subject's site size.

Although Frandson determined the property's highest and best use as-improved is for continued use as a branch bank, he testified his research showed a number of branch banks are closing and they are often purchased for other uses. (Ex. 1, p. 26). Regardless of the subsequent use, he indicated the sales price per-square-foot and total prices do not vary that much.

Frandson researched Iowa sales of improvements in similar locations that remained banks after the sale. (Ex. 1, p. 29). He avoided sales that occurred in larger metropolitan markets. (Ex. 1, p. 29). He noted there were limited sales of properties in similar locations with similar use and design and therefore he extended his sales search back ten years. (Ex. 1, p. 29).

Frandson considered six properties for his sales comparison analysis and adjusted four of these sales to arrive at an indicated value for the subject property. (Ex. 1, p. 30). Frandson asserts his analysis values the subject property in its current use as he searched and relied on properties purchased for continued bank use. His comparable sales are summarized in the following table. (Ex. 1).

Address	Sale Date	Sale Price	Building Area (SF)	Sale Price/SF	Adjusted SP/SF
Subject			2,025		
F1 – 120 Main St, Roland	Mar-17	\$286,500	3,000	\$95.50	\$116.89
F2 – 423 Broad St, Story City	Nov-17	\$245,000	2,757	\$88.86	\$104.69
F3 – 402 Lincoln Way, Ames	Aug-14	\$1,010,000	10,100	\$100.00	\$101.20
F4 – 2504-2506 S 2nd St, Marshalltown	Jul-11	\$237,500	2,176	\$109.15	\$106.69

The comparable properties were between 13- and 42-years old, compared to the subject property that is 50-years old with a 33-year old addition. He made across the board, upward land/building ratio adjustments ranging from 5% to 10%.

Frandsen explained Sale F1 is in a smaller community and has inferior market appeal. He testified this sale was part of a portfolio purchase that included multiple properties. The sale price he used was allocated from the total purchase.

Sale F2 is a November 2017 transfer from Wells Fargo Bank to Harold 1923 LLC. Although not explained in his appraisal report or mentioned during his direct testimony, Frandsen admitted on cross-examination that he was the buyer in Sale 2 and acted more or less as a broker between Wells Fargo Bank and second bank buyer. The November 2017 sale was subject to a twelve month deed restriction prohibiting bank use, but Frandsen testified the restriction did not affect the buyer's decision to purchase. Frandsen considered Sale F2 as most similar in location to the subject.

Frandsen's testimony indicated that during the due diligence period preceding his entity's November 2017 purchase, he had been in contact with Great Western Bank about subsequently re-selling this property to Great Western Bank. His testimony suggests Great Western Bank ultimately agreed to purchase this property from him at that time. In essence, prior to closing on its purchase of the property in November 2017, Harold 1923 LLC had already agreed to resell the property to Great Western Bank.

The Board of Review was critical of this sale and noted a more recent transfer of this property in 2018 to Great Western Bank was not analyzed or reported in Frandsen's appraisal. Frandsen testified he did not use the more recent sale because it was a trade and therefore was not a normal transaction. Frandsen asserted the 2018 sale price listed on courthouse records was based on accounting needs of the buyer and was not

reflective of the true cash equivalence paid for the property. On cross-examination, he testified the real estate value relative to the 2018 transfer was greater than \$245,000. In exchange for transferring ownership of the Sale F2 property, Harold 1923 LLC received Great Western's Bank former location in Story City. Harold 1923 LLC later sold the old Great Western Bank location for about \$165,000. Ultimately, it was Frandson's testimony the 2018 transfer of the Sale F2 property had a value to Harold 1923 LLC of approximately \$295,000 based on the value of the real estate and the value of the trade itself.

Frandson believes Sale F3 is significantly superior because of its Ames location and it is also superior in age and condition. It is roughly five times larger than the subject. Sale F3 is reported to be superior in quality, but is adjusted upward for Quality/Finish/Functional Utility because its finished area includes finished basement area. An upward adjustment typically indicates a comparable is inferior to the subject.

Frandson testified Sale F4 is located in the larger community of Marshalltown, is newer, and superior in condition. It is an eight year old sale. The Board of Review was critical of Frandson's adjustments to this comparable based on a 2013 appraisal of the subject property he completed using the same comparable. (Ex. N). In the 2013 appraisal, Frandson used Sale F4 but made different adjustments and arrived at a higher indicated value – \$120.06 per square foot. (Ex. N, p. 45). Frandson acknowledged changes may have been made in the adjustments but he had not reviewed the prior appraisal during his completion of this assignment.

Frandson's appraisal ultimately concluded a value of \$227,900 for the subject property. (Ex. N, p. 6). The Board of Review questioned why Frandson's 2019 conclusion of value is below that of the 2013 appraisal. He said he was relying on the best information available as of the report date and believed he was using better and more accurate information for the 2019 report. Frandson believes this difference is consistent with testimony from Putzier and the decline in demand for branch bank facilities. However, we note it appears inconsistent with his upward market condition adjustments for his older Sales 3 and 4. Frandson testified the market condition adjustments were basically reflecting changes in cost.

In his reconciliation, Frandson gave some consideration to each of the sales and selected a value for the subject of \$107.00 per square foot. (Ex. 1, p. 32).

Frandson testified no other approaches to value were necessary or developed due to the availability of similar recent sales. The Board of Review questioned why he used sales from 2014 and 2011 if there was an abundance of recent sales. He asserts most of the more recent sales were purchased for non-bank uses but they have a similar price per square foot. (Ex. N).

### Cronk Appraisal

Cronk testified the subject property has good visibility from South Story Street, but is inferior in location to properties located closer to Highway 30. Consistent with Putzier's testimony, Cronk's appraisal states, "There are other banks in the vicinity including one built in 2018." (Ex. W, p. 17). It also describes the commercial redevelopment occurring on the south side of Boone in recent years. (Ex. W, p. 18).

Cronk completed the sales and cost approaches to value. He testified he believes the majority of bank sales involve allocation of value amongst multiple properties or the bank property is used for alternative uses after purchase. He indicated these situations present problems for relying on the sales comparison approach, and therefore he believes the cost approach adds additional benefit and support. He testified completing the cost approach and concluding a land value estimate gives an insight into the local market.

The following table summarizes the five improved properties Cronk relied on for his sales comparison analysis. (Ex. W, p. 25).

Address	Sale Date	Sale Price	Building Area (SF)	Sale Price/SF	Adjusted SP/SF
Subject			2,025		
C1 – 120 Main St, Roland	Mar-17	\$286,500	3,000	\$95.50	\$128.93
C2 – 702 Main St, Jewell	Mar-17	\$318,270	3,796	\$83.84	\$129.96
C3 – 2000 State St, Granger	Dec-18	\$159,400	1,876	\$84.97	\$135.95
C4 – 423 Broad St, Story City	Nov-17	\$245,000	2,757	\$88.86	\$128.85
C5 – 720 Main St, Van Meter	Dec-17	\$180,000	1,927	\$93.41	\$140.11

Sales C1 and C2 sold in 2017 as part of a three bank package sale. Frandson included Sale C1 as part of his sales comparison approach and the same sale price was reported by both appraisers. Cronk made larger adjustments to this property especially for location and concluded a higher adjusted value than Frandson.

Sale C2 was a bank that was also part of the package transaction with the Sale C1. Likewise, Sale C2 has an allocated sale price. Sale C2 is located in a smaller community and was larger in size compared to the subject. It has a smaller land to building ratio than the subject and in Cronk's opinion was inferior in age and condition. Boone Bank questioned the age and condition adjustment. Cronk testified that based on discussions with the buyer's CFO, the property was very dated and the buyer estimated they would be spending \$600,000 in renovations and updates, which was more than the allocated purchase price. (Ex. W, p. 26). In Cronk's opinion this warrants a 30% upward age/condition adjustment. He noted he drove by the building in August 2019. Based on a 2015 photograph of Sale C2 and his August 2019 drive-by, he believes Sale C2 is now superior to the subject but it was inferior to the subject in terms of age and condition at the time of its sale.

Putzier also offered testimony regarding Sale C2. He testified he visited this property regularly while working as a bank examiner from 1985 to 1993. He described Sale C2 as a "very nice bank". He stated he had not been in the bank since 1993. Nonetheless, he testified he thought Sale C2 would be superior to the subject. On cross-examination, Putzier agreed Jewell is a smaller town than Boone, but he noted Sale 2 was the only bank. Having not visited Sale C2 in more than twenty five years, we

give no weight to Putzier's opinion about the condition or quality of that property relative to the subject.

Sale C3 is a transfer of a former bank to a non-bank user. The property's exterior was built to look like a single-family home, but its interior and actual use was designed as a bank. Sale C3 had a deed restriction in place at the time of its sale. Cronk believes this had a negative effect on the sale price because the property could no longer be used for its intended purpose. Although built the same year as the subject, well maintained, and in good overall condition, Cronk adjusted Sale 3 upward for condition to reflect its needed remodeling for conversion to a different use.

Sale C4 was the sale of a former Wells Fargo bank branch. This sale was also used in the Frandson appraisal, and, as previously discussed, was purchased by Frandson through an LLC. Cronk reported the deed included a one-year restriction prohibiting use by a "Financial Services Business", for which he made an adjustment. (Ex. W p. 26). Boone Bank was critical of this adjustment based on Frandson's testimony the deed restriction had no impact on the sale price. In Frandson's opinion the 12-month restriction on use for this property was acceptable to the buyer as they needed this time to complete improvements to the property after their purchase. Frandson testified he does not believe an adjustment is warranted for this sale because it did not affect the buyer's use. Cronk testified his adjustment for the deed restriction reflects how the property was marketed and the effect it has on potential buyers. In his opinion, it limits the pool of potential purchasers. Cronk also noted this property was marketed with a twenty-four month deed restriction but was negotiated down to twelve months.

Sale C5 was a bank converted to a veterinary clinic after the sale. This sale included a deed restriction prohibiting "Financial Services Business" use for two years. Sale C5 was adjusted upward for age/condition to reflect the significant expenditures needed for converting the property to a different use. Boone Bank asserts that making adjustments for both the deed restriction and the cost to convert the property to an alternative use is "double dipping." Cronk disagreed and explained the deed restriction

adjustment reflects the affect to potential buyers. The condition adjustment reflects the costs experienced by the remaining buyers to convert the use.

The adjusted sale prices ranged between \$128.85 and \$140.11 per square foot after net upward adjustments ranging between 35% and 60%. Boone Bank was critical that all of his comparables were adjusted upward. Cronk reconciled to a value of \$130 per square foot, or \$263,250. He concluded a final value indication by the sales comparison approach of \$265,000. (Ex. W, p 28)

Cronk testified the income approach was not developed and he did not believe it was relevant for the valuation of subject property.

In his cost approach, Cronk analyzed and adjusted four Boone land sales ranging in site size from 20,038 square feet to 106,722 square feet. Three of the sales occurred in 2018 and one sold in March 2014. (Ex. W, p. 19). Though located in close proximity to the subject, Cronk identified three of the land sales as having superior location compared to the subject. He believes these properties have greater visibility from Highway 30 and subsequently greater market appeal. Three of the land sales were improved properties at the time of their sale. Cronk notes smaller communities often have limited vacant land sales available for comparison. Therefore, in his opinion it is customary to use redevelopment sales that include a building in the sale. He can then adjust the sale for the contributory value of the building and extract an indication of the vacant site value. The four land sales are summarized in the table below.

<b>Property</b>	<b>Sale Price</b>	<b>Sale Date</b>	<b>Site Size (SF)</b>	<b>Improved</b>	<b>Sale Price/SF</b>	<b>Indicated Value per SF</b>
Subject			27,946		NA	
1 - 1810 S Story St	\$250,000	Jul-18	22,649	Yes	\$11.04	\$6.62
2 - 1211 SE Marshall St	\$175,000	Sep-18	20,038	None	\$8.73	\$6.99
3 - 1504 S Story St	\$750,000	Apr-18	106,722	Yes	\$7.03	\$6.32
4 - 1616 S Story St	\$305,600	Mar-14	31,723	Removed	\$9.63	\$7.71

Sale 1 had only one adjustment. Sale 2 was the only unimproved land sale.

Sales 1, 3 and 4 were improved when they sold but Cronk asserts Sale 4's improvements had no contributory value because they were subsequently removed. However, Sale 4 was purchased by an adjoining property owner and he believes this explains why it has the highest adjusted sale price.

Cronk's appraisal references discrepancies between the Assessor's Office, the original plat, and the GIS system regarding the size of the subject site, but ultimately values the site "as if vacant" based on the site size listed by Assessor. (Ex. W, p. 9). Cronk testified that if the subject site was the size opined by Boone Bank, his opinion of value for both the vacant site and the cost approach would have been between \$15,000 and \$20,000 less but would have had no effect on the sales comparison approach. After adjustments, Cronk's land sales indicated a value per square foot from \$6.32 to \$7.71. Cronk reconciled to \$6.50 per square foot and concluded an opinion of site value, as of January 1, 2019, of \$180,000. (Ex. W, p. 21). We note this exceeds the assessed land value of \$114,610.

Cronk relied on MARSHALL VALUATION SERVICE (MVS) for his cost data and considered the subject property a Class D Branch Bank. Cronk considered the subject to be average quality. Cronk concluded a replacement cost new (RCN), including landscaping and site improvements, of \$450,142. (Ex. W, p. 23).

Cronk calculated a weighted average age of 42 years based on the different construction dates for the subject. He concluded an effective age of 37 years based on its renovations and maintenance. However, he believes the subject is an over-improvement for a branch bank with offices that are not fully utilized resulting in functional obsolescence to the improvements, resulting in a conclusion of 82.22% depreciation to the building improvements. Cronk applied 50% depreciation to the site improvements (parking/landscaping). Cronk did not identify any external obsolescence.

After applying depreciation and adding the land value, Cronk concluded an opinion of value of \$290,000 by the cost approach. (Ex. W, p. 24).

Cronk gave most consideration to the sales comparison approach. He believes the cost approach is relevant and gave it some consideration because it is based on local information from Boone. His final opinion of value as of January 1, 2019, is \$270,000. (Ex. W, p. 30).

## **Analysis & Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). 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). New grounds in addition to those set out in the protest to the local board of review may be pleaded and PAAB 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). Here, Boone Bank asserts that the subject property is not equitably assessed, is assessed for more than the value authorized by law, and that there is an error in the assessment as provided under Iowa Code section 441.37(1)(a)(1, 2, & .4).

### **A. Inequity Claim**

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). Boone Bank offered no evidence of the Assessor applying an assessment 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 *Maxwell* test provides inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.* Because the *Maxwell* test requires a showing of the subject property's actual market value and Boone Bank's over assessment claim requires the same showing, we forgo further equity analysis and turn to the over assessment claim.

## B. Over Assessment 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)(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). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). 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.*

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). Under section 441.21(3), the party contesting the assessment generally has the burden of proof. § 441.21(3)(b)(1). "The burden of proof is one of persuasion" based on all the evidence. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 397 (Iowa 2009). The taxpayer may still prevail if it establishes its claims by a preponderance of the evidence. *Id.* at 396.

The Board of Review agrees the subject's assessment is excessive. It did not contend that PAAB should affirm the assessment. Rather, it asked PAAB to adopt Cronk's valuation, which is less than the current assessment. Therefore, we conclude our only remaining task is to determine the property's correct value. *Compiano*, 771 N.W.2d at 397 ("[T]he court makes its independent determination of the value based on all the evidence.").

In Iowa, property is assessed for taxation purposes following Iowa Code section 441.21. Iowa Code subsections 441.21(1)(a-b) require property subject to taxation to be assessed at its actual value, or fair market value. *Soifer*, 759 N.W.2d at 778.

*"Market value"* is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. § 441.21(1)(b).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783. 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). “[A] difference in use does affect the persuasiveness of such evidence because ‘as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced.’ ” *Soifer*, 759 N.W.2d at 785 (quoting *Bartlett & Co. Grain*, 253 N.W.2d at 93).

“A party cannot move to other-factors valuation unless a showing is made that the market value of the property cannot be readily established through market transactions.” *Wellmark, Inc. v. Polk Cnty. Bd. of Review*, 875 N.W.2d 667, 682 (Iowa 2016). Where PAAB is convinced comparable sales do not exist or cannot readily determine market value, then other factors may be used. § 441.21(1)(b); *Compiano*, 771 N.W.2d at 398 (citing *Soifer*, 759 N.W.2d at 782); *Carlton Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997); § 441.21(2). If sales cannot readily establish market value, “then the assessor may determine the value of the property using the other uniform and recognized appraisal methods,” such as income and/or cost. § 441.21(2).

[A]ssessors are permitted to consider the use of property as a going concern in its valuation. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 517 (Iowa

1985). “[T]he proper measure of the value of property is what the property would bring if sold in fee simple.” *I.C.M. Realty v. Woodward*, 433 N.W.2d 760, 762 (Iowa Ct. App. 1988) (emphasis added); *Merle Hay Mall v. City of Des Moines Board of Review*, 564 N.W.2d 419 (Iowa 1997); *Oberstein v. Adair Cnty. Bd. of Review*, 318 N.W.2d 817 (Iowa Ct. App. 1982). In *Soifer*, the taxpayers claimed the market value of their property should be reduced because “McDonald’s requires buyers of McDonald’s properties to agree to a noncompete clause that prevents use of the property for a fast food restaurant for twenty years.” 759 N.W.2d at 788. The Iowa Supreme Court rejected that argument, stating, “To eliminate [franchise-to-franchise] sales because McDonald’s insists on noncompete clauses when selling properties would ignore the requirement that real estate be valued based on its present use.” *Id.* at 789. Likewise, we believe the use of sales subject to non-compete clauses, without making necessary adjustments, may result in a valuation that does not represent the subject’s fee simple, fair market value in its present use.

In support of its position, Boone Bank submitted the Frandson appraisal. The Board of Review offered the Cronk appraisal. The appraisers’ conclusions are summarized in the table below.

Appraiser	Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
Frandson	\$217,000	Not Developed	Not Developed	\$217,000
Cronk	\$265,000	Not Developed	\$290,000	\$270,000

Boone Bank believes Frandson’s appraisal is most reliable and should be given the greatest consideration. It asserts Cronk’s reliance on three sales that were adjusted upward for deed restrictions, of which two also received adjustments for post-sale alterations, artificially inflated his indicated value for the subject. It argues Frandson’s use of sales that were purchased for continued bank use support this assertion.

The Board of Review asserts Cronk’s appraisal is the most reliable appraisal in the record because he used both the sales approach and the cost approach. In addition, he used more recent sales than Frandson. The Board of Review questioned the reliability of Frandson’s appraisal and point to his 2013 appraisal of the subject property

that shows the same comparable properties but with different adjustments and a higher value conclusion.

First, we find there are sufficient, reliable comparable sales to readily establish the subject property's value. Therefore, we give no consideration to Cronk's cost approach and now consider the appraisers' sales approaches.

Frandsen's comparable sales are all properties that continue to be used as banks. However, Sales F3 and F4 are dated having occurred in 2014 and 2011 respectively. PAAB has additional concerns regarding these two sales. Sale F3 is significantly larger than the subject and sold in 2014. PAAB notes Cronk's report discussed a 2019 sale located at 203 SE 16th Street in Ames that appears somewhat similar to Sale F3. (Ex. W, p. 28). Though Cronk did not use the sale because of its much larger size and its location in Ames, it would appear to be more relevant to the 2019 date of value than F3.

Sale F4 was an eight year old sale in Marshalltown. Cronk testified he saw no reason to rely on such a dated sale. The Board of Review was critical of Frandsen's analysis of Sale F4 because he had used the it in a 2013 appraisal of the subject property but applied different adjustments resulting in a much different, and higher, indicated value for the subject. We find Sales F3 and F4 offer minimal persuasive value in determining the subject's fair market value as of January 1, 2019.

We are also wary about relying on Sale F2. First, although perhaps not ethically required, we do question Frandsen's decision not to report that he was the buyer of the property. This is especially true because during his testimony, he proceeded to discuss the motivations and thought process of the buyer without having identified himself as such. Aside from that, the transaction itself invites questions of its reliability. It was sold subject to a deed restriction and he made no adjustments for the deed restriction or the improvements made after the sale. Cronk used the same sale (C4) in his sales comparison approach but adjusted for these sale conditions. Frandsen's testimony indicates his 2018 transfer of this property to Great Western Bank was worth roughly \$295,000. Ultimately, we find Cronk's adjustments to this sale to be most reliable.

Sale F1 was also used by Cronk. The factual data pertaining to this sale was similar in both reports, but Cronk made a larger location adjustment and adjusted for size which resulted in a higher indicated value for the subject.

Three of Cronk's comparables (C1, C2, and C4) were sold and continue to be used as banks. Sales C1 and C2 were part of the same multi-parcel sale. Boone Bank was critical of the adjustments made to Sale C2 but we find those criticisms lack merit. Sales C1 and C4 were both used by Frandson. As previously stated, we find Cronk's adjustments to C4 more reliable.

Sales C3 and C5 were purchased for alternative use and with deed restrictions. Cronk adjusted both sales for these two factors. Boone Bank was critical of these adjustments and felt he was "double dipping" and making different adjustments for the same factor. Cronk disagreed and testified that both are warranted. PAAB notes Sales C3 and C5 set the upper end of Cronk's adjusted sales prices, but he reconciled to a value indication closer to Sales C1, C2, and C4, which showed continued bank use.

Based on the foregoing, we find Cronk's sales comparison approach to be the most persuasive and reliable indication of the subject property's correct fair market value as of January 1, 2019. Aside from our belief that Cronk's sales and adjustments most accurately reflect the subject's value, we note especially that Frandson's credibility was impaired by his failure to disclose, until cross-examination, his own involvement in a sale on which he relied. Moreover, we question his failure to review his 2013 appraisal prior to completing this assignment given his reliance on market data from this prior report. We also find his explanation for arriving at a lower value for 2019 to be lacking and inconsistent with other market data and his own testimony. Acknowledging Putzier's testimony of challenges facing branch banks, we find Frandson's conclusion the subject's value has declined since 2013 is somewhat at-odds with the commercial redevelopment occurring in the subject's immediate area.

### **C. Error Claim**

Lastly, Boone Bank asserts there is an error in the assessment regarding the site size. An error may include, but is not limited to, listing errors or erroneous mathematical

calculations.” Iowa Admin. Code R. 701-71.20(4)(b)(4). The Board of Review contends it is Boone Bank who must prove the error in the assessment, and they believe they have failed in doing so. Boone Bank believes the recorded survey in the record proves the bank’s total site area.

PAAB agrees the survey in the record is the most persuasive data submitted. (Ex. 2). The survey completed by a professional in this field shows the location of the Right-of-Way and dimension of subject site that is located east of the Right-of-Way. We note Frandson relied on this information but Cronk did not. However, Cronk testified it would not have affected his indicated value from the sales comparison approach.

Ultimately, we find the issue of the subject’s site size is rendered temporarily moot by this Order. Because the only other opinion of land value in the record supports the current assessed land value and because PAAB is lowering the subject’s total value, we find it unnecessary to make a conclusion about the correct site size. Nonetheless, we suggest the Assessor and Boone Bank continue to investigate the site size disparity issue before the next reassessment cycle.

### **Order**

PAAB HEREBY MODIFIES the Boone County Board of Review’s action and orders the January 1, 2019 assessment for the subject property be set at \$265,000.

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 review 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 (2019).



---

Dennis Loll, Board Member



---

Elizabeth Goodman, Board Member



---

Karen Oberman, Board Member

Copies to:

Michael Tungesvik by eFile

Boone County Board of Review by eFile

Boone County Auditor  
201 State Street  
Boone, IA 50036