

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

PAAB Docket No. 2018-056-10008R

Parcel No. 02-47-15-05-353-0060

**Daniel J Duncan,**

Appellant,

vs.

**Lee County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 10, 2018. Daniel Duncan was self-represented and requested written consideration. Lee County Attorney Ross Braden represented the Board of Review.

Duncan owns a residential property located at 3012 Avenue K, Fort Madison. The property's January 1, 2018 assessment was \$47,570, allocated as \$10,200 in land value and \$37,370 in dwelling value. (Ex. A).

Duncan petitioned the Board of Review contending the subject property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(2) (2018). The Board of Review denied the petition.

Duncan then appealed to PAAB re-asserting his claim of over assessment, as well as asserting the subject property was not equitably assessed and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1, 2, & 4) (2018).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2018). 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 may consider any grounds under Iowa Code section 441.37(1)(a-e) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-71.126.2(2-4). 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(3)(a). 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. *Id.*; 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 one-story home built in 1941 with 690 square feet of gross living area, an unfinished basement, an enclosed porch, and a deck. There is also a two-car detached garage built in 1968. The site is 0.172 acres. The improvements are listed as a 4-05 grade (average quality) in normal condition. (Ex. A). The dwelling is receiving a negative 10% functional obsolescence adjustment and an “other” adjustment of 10%.

Duncan purchased the subject property in January 2018 for \$35,000, asserting it was an arms-length transaction. (Ex. 2). He believes the assessment should be no higher than the purchase price. The Board of Review submitted a letter from Lee County Assessor Teresa Murray, which states that conversations with the seller indicated it was a private sale that had not been exposed to the market. (Ex. D).

Murray also reported the seller explained the subject property had been vacant for almost one-year with no tenants. (Ex. D). Duncan asserts the subject property is not a rental. (Ex. 3). However, his mailing address on the property record card is different than the subject's address suggesting he does not occupy the property.

Duncan submitted a one-page description and the Beacon summary sheets of three recent sales he believes demonstrate his property is over assessed. (Ex. 4). The following table is a summary of the data Duncan offered.

| Address          | Date of Sale | Sale Price | Gross Living Area | Assessed Value | Condition    | Grade |
|------------------|--------------|------------|-------------------|----------------|--------------|-------|
| Subject          | Jan-18       | \$35,000   | 690               | \$47,570       | Normal       | 4-05  |
| 1 - 2820 Ave J   | Feb-18       | \$32,000   | 1120              | \$84,410       | Excellent    | 4-00  |
| 2 - 2818 Ave J   | Dec-17       | \$25,000   | 780               | \$34,320       | Normal       | 4-00  |
| 3 - 1215 39th St | Jan-18       | \$20,500   | 832               | \$27,120       | Below Normal | 5+05  |

None of the sales were adjusted for differences that may exist between them and the subject property. According to the Beacon sheets none of the sales have finished basements, but based on a peek through the basement window, Duncan asserts Sale 1 does have basement finish.

Sale 1 was a bank sale resulting from foreclosure. Sale 3 was sold at auction from a Trust. Only Sale 2 was listed as a normal transaction on the Beacon sheets. Sale 2 offers many similarities to the subject property in terms of size, condition, and grade (quality), but it was built in 1900 compared to the subject's year built of 1941. Additionally, it has only a one-car garage built in 1900 compared to the subject's two-car garage built in 1968.

Duncan asserts the subject property suffers from both economic and functional obsolescence. (Exs. 5-7). He submitted photos and a description of neighboring properties that are in disrepair and inferior in quality compared to his property. (Ex. 5). He also asserts the grade of the subject property is too high based on its construction materials and overall deferred maintenance. (Ex. 6). Duncan states the subject's windows are original, inefficient, and/or improperly installed affecting their functionality. (Ex. 7). Despite his belief the subject suffers from obsolescence, he did not offer any

evidence of how it impacts the value of the subject property. We note again that the Assessor is applying an obsolescence adjustment.

Murray provided a time-line of appeals from the Assessor's Office and Board of Review requesting an interior inspection of the subject property to ensure it is properly listed. (Ex. D). In response, Duncan outlined prior experiences, which caused him to decline an inspection of the subject property. (Ex. 8).

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

Duncan contends the subject property is inequitably assessed, over assessed, and that there is an error in the assessment. § 441.37(1)(a)(1, 2, & 4).

Duncan asserts the subject property is incorrectly listed as a 4-00 grade. However, he provided no evidence to support this assertion; therefore, we find no record of error in the assessment.

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). Duncan 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 that 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 the Duncan's over assessment claim requires the same showing, we forgo further equity analysis and turn to the 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. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). 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.* Typically, market value is demonstrated with a competent appraisal or a comparative market analysis, considering at minimum the sales comparison approach to value.

Duncan submitted three recent sales of similar one-story homes, but two of the sales were abnormal, having sold from foreclosure or at auction. As noted above, such transactions shall not be taken into account, or the sale price needs to be adjusted to eliminate distortion in market value, which Duncan did not do. Therefore, we give them no consideration.

The subject property recently sold, but it had been vacant for over a year and was not listed on the open market; raising questions about whether the sales price reflects market value. Duncan did not provide an appraisal or commercial market analysis to demonstrate the subject's sales price is consistent with the market. For these reasons, we are hesitant to rely solely on the subject's sale price alone. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996) (noting that a contemporaneous sale of a property was a matter to be considered but did not conclusively establish the property's market value). The other evidence supporting Duncan's claim is the sale of 2818 Avenue J. That property, however, is much older than the subject and no adjustments were made to the sale to account for differences between the two properties. On the whole, this evidence does not persuade us that the subject property is over assessed.

While it is Duncan's prerogative to decline an interior inspection of his property, he may wish to reconsider this stance and contact the Assessor's Office to schedule an interior inspection before the 2019 assessment is set to confirm whether the subject property is correctly listed and valued.

Viewing the record as a whole, we find Duncan failed to show his property is inequitably assessed, over assessed, or that there is an error in the subject property's assessment.

### **Order**

PAAB HEREBY AFFIRMS the Lee 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 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2018).



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Karen Oberman, Presiding Officer



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Camille Valley, Board Member

Copies to:

Daniel Duncan  
1320 Avenue B  
Fort Madison, IA 52627

Lee County Board of Review by eFile