

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

PAAB Docket No. 2018-008-00075R

Parcel No. 08-8426-22-23-82-055

Joshua Jacobsen,

Appellant,

vs.

Boone County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 29, 2018. Joshua Jacobsen was self-represented. Assistant Boone County Attorney Matt Speers represented the Board of Review.

Jacobsen owns a residential property located at 1723 Clinton Street, Boone. The property's January 1, 2018 assessment was \$312,809, allocated as \$19,845 in land value and \$292,964 in dwelling value. (Ex. A).

Jacobsen petitioned the Board of Review contending that the assessment was not equitable and that the property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2018). (Ex. C). The Board of Review denied the petition. (Ex. B).

Jacobsen then appealed to PAAB reasserting his claims of inequity and over assessment. He additionally raised the claim of error in the assessment. § 441.37(1)(a)(4). At hearing, Jacobsen sought to raise a claim of misconduct related to the 2018 assessment upon learning that this claim was not available to him for a 2017 appeal. § 441.37(1)(a)(5). The Board of Review did not object, instead indicating the claim is not supported by the evidence. We note, in order for PAAB to consider claims, they must be properly raised by the appellant following the provisions of section

441.37A(1)(b) and Iowa Administrative Code Rule 701-71.126.2(2-4). Jacobsen did not properly raise a claim of misconduct for his 2018 assessment appeal, but in this case we will nevertheless address it in our order.

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 to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). 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).

Findings of Fact

The subject property is listed as a two-story home built in 2001 with 2290 square feet of gross living area, 1611 square feet of basement finish, a deck, a three-season porch, and a two-car attached garage. The site is 0.289 acres. Jacobsen purchased the property in November 2017 for \$293,000. (Ex. A).

Jacobsen explained that the subject property was assessed for approximately \$354,000 in 2017 when it was originally listed for sale. Jeffrey and Lori Burma, the sellers, petitioned the Board of Review, which reduced the assessment to \$324,351. After Jacobsen's purchase, the 2018 assessment was set at \$312,809. (Ex. A, p. 5). In Jacobsen's opinion, the correct January 1, 2018 assessed value should be \$285,500. He arrived at this value by subtracting \$7500 of personal property he asserts existed at the time of sale from the \$293,000 purchase price.

Dori Burma, a local real estate agent, testified for Jacobsen. Jacobsen questioned her regarding several properties in the record. (Exs. 3, 11, 12, 13, & 14). He attempted to elicit testimony from Burma that the properties were either superior or inferior to the subject property. No adjustments were provided for differences between

these properties and the subject property to opine a January 1, 2018 value for the subject property.

Burma was the listing and selling agent for the subject property. The purchase price was \$293,000, which included \$7200 of personal property. (Ex. 5). She could not recall if the personal property was reported to the assessor's office. A note on the property record card corroborates this value. (Ex. A, p. 8).

Jacobsen submitted the purchase agreement for the subject property, as well as an amendment for personal property. (Exs. 5 & 6). The amendment itemized the personal property included in the sale but no values were listed. Burma's testimony about the personal property was that "it was expensive because it all came from Redekers." Notations on the property record card indicate that after the sale, Burma submitted a questionnaire to the Assessor's Office indicating the personal property had a value of \$7200. (Ex. A, p. 8). At hearing, Burma testified this was a "very conservative" estimate of value. There is no evidence in the record that Burma has any expertise in valuing personal property.

Burma testified that she took a reduced commission of 5% on the sale, as opposed to the typical 6% to 7%, which is typically split between listing and selling agents. She indicated she has also offered this rate to other sellers. The subject property was originally listed for \$335,000 and on the market for nine months before it sold. (Ex. 2). Burma testified Jacobsen was the only one to make an offer. She acknowledged the reduced commission could have played a role in the parties' decision to extend and accept the offer.

Burma explained the subject property's list price of \$335,000 was at the sellers' directive. Lori and Jeffery had been working with another, more experienced realtor who had told them to list it at the higher price. She believed the property should have been listed between \$310,000 and \$315,000. In her opinion, based on comparable properties, the subject's 2017 market value was \$305,000. Although she believes it would have had a longer marketing time, she believes its value would be the same in 2018.

Burma stated that 2016 was a sellers' market in Boone, but sales slowed in 2017 and more in 2018.

Burma initially stated that the sellers were not under any compulsion to sell. On cross-examination, however, Burma acknowledged the sellers had to make substantial restitution in a criminal matter in excess of the value of the subject property at the time it was listed for sale. For a period of time there was a restitution lien on the subject property, which was removed several months prior to Jacobsen's purchase in November.

Burma also acknowledged the sellers of the subject property were related to her through marriage. Despite these facts, Burma does not believe the marketability of the home or its subsequent sale price was affected.

We find Burma's credibility diminished because she failed to disclose her familial ties to the sellers and the sellers' legal and financial troubles in her direct testimony.

An appraisal was completed of the subject property for IRS purposes in relation to the criminal restitution liens. Mark Martens of Lincoln Highway Services, LLC, opined a value of \$302,000 as of July 2017 after developing the sales comparison and cost approaches to value. (Ex. 1). Martens gave sole consideration to the sales comparison approach in his reconciliation. The following table summarizes the comparable sales Martens included in his analysis.

Address	Sale Date	Sale Price	Gross Living Area (SF)	Basement Finish (SF)	Adjusted Value
Subject			2290	1611	
1920 SE Linn St	Feb-17	\$284,000	2472	1057	\$294,484
508 S Delaware St	Aug-16	\$295,000	2529	1000	\$302,264
916 Southridge Dr	Jun-16	\$367,000	2219	1000	\$344,208
606 Edgewood Dr	Feb-16	\$284,500	2586	720	\$307,032

The sales are similar in age and condition requiring minimal adjustments overall. Sale 3 had the largest adjustments, including a downward adjustment of \$35,000 for its larger site. Additionally, Sale 3 is a one-and-a-half story home compared to the subject's two-story design. The appeal of Sale 3's design, which would likely feature a main level

master bedroom, may explain why it sets the upper end of the sales price and adjusted range of value.

Martens also developed the cost approach, but he gave it no consideration in his final opinion of value. He concluded an opinion of value by the cost approach of roughly \$345,500.

Jacobsen discounts this appraisal, believing that all appraisals are subjective and because it was completed prior to the November 2017 purchase the market may have changed for the subject property.

Jacobsen submitted five properties he believes are similar to the subject property and relied on them to support his various claims. He included the property record card, photos, and a spreadsheet comparing the cost of each to the subject property. (Exs. 23-27). The following table summarizes the properties.

Address	Sale Date	Sale Price	Gross Living Area (SF)	Basement Finish (SF)	2018 Assessed Value
Subject	Nov-17	\$293,000	2290	1611	\$312,809
1 - 1920 SE Linn St	Feb-17	\$284,000	2472	1057	\$269,585
2 - 920 Southridge Dr	Jul-18	\$287,750	2384	828	\$277,156
3 - 1005 S Jackson St	Aug-18	\$285,000	1940	1237	\$277,304
4 - 1723 Timberline Dr	Jun-18	\$235,000	2494	No Basement	\$270,772
5 - 1816 Cedar St	Apr-18	\$315,000	1997	1645	\$310,841

Sales 3 and 5 are one-story homes. Sale 4 is a split-foyer home with all of its finished living area above grade; it is listed and priced on the property record card as a two-story with no basement. Because the subject property is a two-story home with a full and finished basement we do not find these sales reasonably comparable to it.

Sales 1 and 2 are similar to the subject. Both are two-story homes but have lower quality and less basement finish than the subject property, which would contribute to their lower sale prices and assessed values when compared to the subject property. Jacobsen did not adjust the sales for differences between them and the subject property to arrive at a January 1, 2018 opinion of market value.

Jacobsen relied on the same comparable properties asserting errors exist in the listing and valuing of his property, as well as some of the comparables. He testified that

he believes the errors exist in the determination of assessed value for the improvements only. He does not dispute the assessed land value. In an effort to support his error claim, Jacobsen created a spreadsheet comparing different components of subject property based on the values assigned on the property record card and his interpretation of how the IOWA REAL PROPERTY APPRAISAL MANUAL (MANUAL) should be applied. (Ex. 9). We note Jacobsen acknowledged he does not have any training using the MANUAL. Overall, we find his application of the MANUAL flawed and his calculations unreliable.

We do not find it necessary to recite each specific example Jacobsen provided; but we will examine several of his more prominent claims.

Jacobsen asserts his property has only a 574-square-foot base, which should result in a deduction of \$186.80 to his assessment. (Ex. 9). However, using the MANUAL, there is no difference in the base price for a 574 or 575 square feet 2-story base home. The MANUAL does not contemplate dividing the base costs to arrive at a per-square-foot value. Rather, the assessor rounds the square feet up or down as appropriate and applies the base cost associated with that area, which in this case, whether 574 or 575, is \$104,540. This is the exact number applied to Jacobsen's assessment. (Ex. A, p. 3).

As another example, Jacobsen removed roughly \$1700 of cost associated with 28 square feet identified as "porch frame qtrs over" testifying that this area does not exist. (Ex. 9). Boone County Assessor Paul Overton explained this area was a 2-by-14-foot overhang on the front of the second level of the home, which is identified in the sketch of the improvements and visible in the photos on the property record card. (Ex. A, pp. 5-7). Despite Jacobsen denying its existence, it is clear there is a bump-out on the second story of the property and that this area exists and should be valued.

Jacobsen took issue with the value applied to a 288-square-foot, one-story three-seasons room, which is listed on the property record card as "Porch: 1S Frame Enclosed" and priced with a cost new of \$12,480. (Ex. A, p. 3). In his opinion, this should be priced as a deck and valued at \$4870 because it does not have what he believes is a typical home foundation. (Ex. 9). He submitted a photo of the rear of the three-season porch, as well as a photo of the crawl space showing the wood frame

foundation. (Ex. 15). The Martens appraisal includes a color photo of the interior of the subject's three-season porch, which shows it is finished and trimmed similar to the main portion of the home. (Ex. 1, p. 11). Overton also testified that this room is finished similar to the rest of the main level. It is clear Jacobsen's three-season room has a roof, windows, walls, dry-wall, trim, and other finishes similar to the main floor living area. It bears no resemblance to a deck, which is an open, unenclosed structure.

Jacobsen's asserted an error in the categorization of his basement finish. The property record card indicates 1127 square feet of average-quality-living-quarters basement finish with a cost of \$21.50 per square foot and an additional 484 square feet of low-quality-living-quarters basement finish with a cost of \$17.50 per square foot. (Ex. A). Jacobsen believes, however, the majority of the basement finish should be low quality. (Ex. 9). Assessor Paul Overton testified the quality of the basement finish is typically based on appraiser judgment. We note the Manual lists \$21.50 as the price per square foot for living-quarters finish with multiple rooms and \$17.00 per square foot for recreation room finish for single rooms. (MANUAL p. 7-77). Additionally, based on the pictures in the appraisal, the property has a basement family room, basement bedroom, and full basement bathroom. All of these areas appear to be of average-quality based on the trim, finishing, and lighting fixtures. This is as compared to the rec room in the subject property that appears to have a solid surface or cement floor. Based on this information, we find no error in the listing.

Jacobsen also asserted the Assessor did not apply assessing methods in a uniform manner. As an example he noted the property at 1005 S Jackson Street has a wood deck that he testified is identical to his deck except for size. Yet the Jackson Street deck was assessed at \$16 per square foot and his deck was assessed at \$20 per square foot. (Exs. 25, p. 3 & A, p. 3). The appraisal identified the subject property as having a composite deck. (Ex. 1, p. 5). However, the Jackson Street deck is listed as "wood deck-med," whereas the subject deck is listed as "vinyl/compdeck-med," which would explain the different prices. Both of these values are supported by the MANUAL. (MANUAL p. 7-78). Similarly, Jacobsen noted his property is being assessed at \$70 per lineal foot for brick veneer but the Jackson Street property is only be assessed "for its

brick” at \$35 per lineal foot. (Exs. 9; 25, p. 3; & A, p. 3). However, the subject property’s brick veneer extends from the base of the main level foundation to the top of the first story and the entire front of the garage. (Ex. 1, p. 10). Comparatively, the Jackson Street property has significantly less veneer on the front of the home. (Ex. 25, attached photos). The subject’s veneer is listed as “1 Story Brick,” and Jackson Street’s veneer is listed as “½ Story Sim Stone.” Again, both of these values are supported by the MANUAL. (MANUAL p. 7-76). We find no error in these listings.

Jacobson testified that another property located at 920 Southridge Drive does not have any brick veneer listed on its assessment but he provided photos showing it does in fact have brick on the front of the home. (Ex. 24, attached photos). However, the Board of Review noted the photos Jacobsen submitted in Exhibit 24 are incorrect when compared to his Exhibit 11, which is a color copy of the Boone County Assessor’s Beacon sheet. Exhibit 11 includes multiple photos of the front of 920 Southridge Drive and illustrates Jacobson’s photo is of the wrong house, and that it does not have any brick veneer. Based on this, the Board of Review questioned the reliability of Jacobsen’s evidence and analysis in its entirety and believes his conclusions cannot be trusted.

Jacobsen’s cost analysis and conclusions for the subject property and all of his comparables did not consider depreciation or grade-multipliers because he did not know how to calculate for those factors. Regardless, he does not believe it matters because he believes it would only result in a reduction to his conclusions.

Jacobsen also attempted to show his property was inequitably assessed based on the Assessor’s Office equalization ratio analysis (Exs. 21; H-J; L-N). We note however that these analyses compare the same year sales to the same year assessments.

Finally, Jacobsen asserts the Board of Review refused to consider the purchase price as evidence of the correct value of his property, and was directed by Overton to deny the petition. Jacobsen played a portion of a recording from the Board of Review hearing that he believes supports this assertion. He argues these actions are demonstrative of misconduct. As a result, this caused him to invest significant time to

bring his claims to PAAB, which he testified affected his quality of life and caused him monetary loss. He submitted a list of time and damages, and believes he should be compensated as a result of the misconduct. (Ex. 22).

The Board of Review questioned Jacobsen about a November 2017 appraisal done in conjunction with his purchase of the subject property. Jacobsen admitted the existence of the appraisal and testified it valued the subject property at \$305,000. He stated he did not submit the appraisal because he does not have access to it. Jacobsen also acknowledged he took out a line of credit using the subject property as collateral in May 2018, at which time an appraisal concluded a value of \$300,000 for the subject property.

The Board of Review submitted rebuttal evidence of a financial statement Jacobsen prepared in which he identified the market value of his property at \$300,000. (Ex. R). Jacobsen acknowledged that he created the document, he believes roughly in December 2018, but did not know why it had been generated.

Overton testified for the Board of Review and explained his professional experience, his current status as an appointed County Assessor, and also submitted evidence of his training. (Exs. O-P). PAAB finds Overton to be qualified and knowledgeable about assessment methodology.

Overton explained that Lori Burma contacted the Assessor's Office in 2017. As a result, staff was sent to inspect and review the subject property to ensure it was correctly listed. During this review, it was discovered the subject property had basement finish that was not reported or listed on the property record card. Additionally, the grade of the property was lowered and the Board of Review set the 2017 assessed value at \$324,351. (Ex. A, pp. 5 & 7). Subsequently, an error was corrected for the 2018 assessment and it was set at \$312,809. Overton explained he cannot remember the specifics of the "error" but believed it had to do with the grade of the property, which had been intended to be lowered to 3+00 in 2017, but was inadvertently set at 3+05 for that assessment.

Overton reviewed the five properties that Jacobsen relied on for his claims. He noted a main difference between the subject and Jacobsen's comparables is the

amount of basement finish. These comparable properties did not convince Overton that the assessment is incorrect.

Overton commented on the three appraisals completed within twelve to eighteen months of the January 1, 2018 assessment date that indicated values between \$300,000 and \$305,000 for the subject property. However, in his opinion, the assessed value of \$312,809 is within 5% of those appraisals, which he believes complies with the State of Iowa requirement that an assessment to be within 5% of a property's market value. Overton testified that he does not believe the November 2017 purchase price of \$293,000 reflects its market value because he believes it was affected by the restitution lien that had been on the subject property.

Analysis & Conclusions of Law

Jacobsen 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). He also untimely raised a misconduct claim, which we will discuss. § 441.37(1)(a)(5).

In appeals before PAAB, 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).

1. Inequity

To prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2017) and assessed (2018) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Here, there are 2017 sales in the record, but we only know the 2018 assessed value for one property 1920 SE Linn. Its assessment/sales ratio is 1.02. However, more than one comparable is required to establish inequity. *Id.* at 712; *Crary v. Bd. of Review of Boone*, 286 N.W.2d 428 (Iowa 1939).

Alternatively, 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). Jacobsen asserts the Assessor applied an assessing method in a non-uniform manner. He believes the assessment of his property compared to other properties he considers similar to his, have different costs applied for the same improvement category. As we note in the findings, Jacobsen does not understand how to apply the MANUAL, which leads to much of his confusion and belief that errors exist. Based on our review of Jacobsen's asserted errors, we conclude his attempt to show inaccuracies in his listing and the listing of other properties is not supported by the record. His analysis contains multiple flaws, for example, Jacobsen asserted his property was being assessed for veneer yet a property located at 920 Southridge Drive was not being assessed for its brick veneer. However, the photograph on that property's record card shows it does not have any veneer, and that Jacobsen's photo was of the wrong house. Given our findings in regarding Jacobsen's multiple error claims (*supra*, pp. 5-8), we conclude he failed to show the Assessor applied an assessment method in a non-uniform manner.

2. Error

Regarding his error claim, Jacobsen's concerns are primarily with the subject's improvement value. However, 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). Accordingly, while giving due consideration to Jacobsen's arguments, our end focus when evaluating his claim is on the subject property's total value.

Jacobsen contends the Assessor erred in applying the MANUAL to his improvements, resulting in an over assessment. However, Jacobsen testified he did not know how to correctly apply the MANUAL and, in fact, did not consider integral factors such as the grade-multiplier or applying depreciation. Moreover, he acknowledged errors in his analysis including failing to consider basement area under portions of the

main floor. Although Jacobsen clearly put forth great effort in analyzing his assessment, we find the evidence is flawed and does not result in a reliable analysis. PAAB finds no error in the assessment.

3. Misconduct

Jacobsen also contends there is misconduct in the assessment of his property because he believes the Assessor should have relied solely on the 2017 sale price, less personal property, when setting the 2018 assessed value. Misconduct in an assessment “includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravene any applicable law, administrative rule, or order of any court or other government authority.” § 441.9. Jacobsen asserts ignoring the subject property’s sale price was misconduct. Here, it appears the assessor and Board of Review were aware of the sales price, as well as an appraisal and believed the assessment was supported by this information. Jacobsen did not show the assessor knowingly engaged in assessment methods that ignored law. We conclude there was no evidence of misconduct in the assessment.

4. Market Value

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). The sale price of the subject property is a matter to be considered in arriving at market value, but does not conclusively establish that value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289,290 (Iowa 1996); *McHose v. Property Assessment Appeal Bd.*, 2015 WL 4488252 (Iowa Ct. App. July 22, 2015) (upholding PAAB’s decision not to rely on the subject’s sales price of \$71,900 when evidence showed comparable properties were sold from \$103,000 to \$106,000).

Jacobsen believes PAAB should set his assessment at \$285,500, which is his purchase price of the property less \$7200 in personal property.

He submitted five sales, but we conclude that only two are similar two-story homes like his. Of those, only one sold prior to the 2018 assessment date (1920 SE Linn Drive) and it was not adjusted for differences between it and the subject property to arrive at a conclusion of value.

The record includes the Martens appraisal of the subject property showing the fair market value to be \$302,000 as of July 2017. Jacobsen also testified that two other recent appraisals of the subject property may exist, one from his purchase and one from a subsequent equity loan, that value the property at \$305,000 and \$300,000 respectively. The Board of Review offered no evidence or testimony to suggest the Martens appraisal was flawed or unreliable.

Given the subject property's sales price is lower than the only independent appraisal in the record, and apparently lower than both an appraisal completed contemporaneous to the purchase price and for a subsequent equity loan, we conclude the sales price alone should not set the subject property's assessed value. Rather, PAAB finds the Martens appraisal is the most credible and reliable evidence in the record of subject property's actual market value relative to the assessment date at issue, and would appear to be within the value range of the other recently completed appraisals.

Given the foregoing, we find Jacobsen's property is over assessed and its correct market value, as of January 1, 2018, is \$302,000.

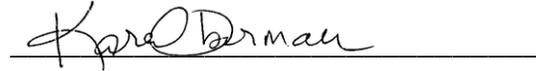
Order

PAAB HEREBY MODIFIES the Boone County Board of Review's action, and orders the subject property's total assessment be set at \$302,000.

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 (2018).



Karen Oberman, Presiding Officer



Camille Valley, Board Member

Copies to:

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