

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

PAAB Docket No. 2019-057-00034R

Parcel No. 10294-78025-00000

Dustin Kern (Prestwick LLC),

Appellant,

vs.

Linn County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 22, 2019. Dustin Kern was self-represented. Tami McFarland, Chief Deputy Linn County Assessor, represented the Linn County Board of Review.

Prestwick LLC (Kern) owns a residential property located at 4350 29th Avenue, Marion, Iowa. The subject property's January 1, 2019 assessment was set at \$188,200, allocated as \$70,400 in land value and \$117,800 in dwelling value. (Ex. A).

Kern petitioned the Board of Review under Iowa Code section 441.37 (2019). The Board of Review denied the petition. Kern asserted a claim that his assessment was not equitable compared to the assessments of other like property under section 441.37(1)(a)(1) to PAAB.

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) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(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(1)(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. § 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 2.080-acre site located in Marion. It is improved with a one-story garage built in 2018 that is 3150 square feet with 1722 square feet of finished area. The finished area includes a basketball court, kitchen cabinetry, a heating/cooling unit, bathroom, and 10 to 18 foot ceilings. The improvements also feature a covered front porch and concrete patio. It is listed in normal condition. (Ex. A). The Board of Review testified the subject improvements had a cost of construction of \$130,000 and a friend/contractor of the owner had completed most of the work. The Board of Review asserts that the garage has the appearance of a dwelling and is superior to any of the garages in the record. Kern testified that he did not want the garage to look like an outbuilding, but does not believe the value should change because of its appearance.

Kern testified that the Linn County Assessor's Office had been very helpful and accommodating. He also acknowledged that the subject was a very unique property and therefore difficult to value.

Kern offered no exhibits but testified about two properties that, in his opinion, had similar outbuildings. The properties are located at 2184 Echo Hill Road and 3851 29th Avenue. He acknowledged that these properties contain metal outbuildings but that he considered them similar to wood-frame outbuildings like his. Kern explained he had

researched both types of buildings prior to construction, and asserted the costs were similar. He provided a few specifics regarding the size of the outbuildings and the size of the sites, but gave no details regarding the amount of finish, type of finish, or value of the properties. He noted that the Assessor's website does not provide the value assigned to the outbuildings. He testified that based on his analysis, the outbuilding located at 3851 29th Avenue appeared to be assessed at \$27 per square foot. Based on this he concluded a market value for his garage of \$30 per square foot. McFarland was critical of this comparable and called it a steel utility building.

McFarland agreed with Kern's assertion that the subject is a unique property. She believes the properties listed on Exhibit F are the most similar properties to the subject within the county. The Board of Review provided these properties because they are wood-frame accessory buildings, many with finish, and all having over 2000 square feet of area. No adjustments for differences between them and the subject property were made and she stated that none of these properties had sold.

McFarland testified that many of subject's additional features were not separately accounted for in the assessed value. (Ex. A). She indicated the subject's kitchen, basketball court, stone veneer, hot tub, separate office, and free standing fireplace have not been given any value in the assessment. (Ex. A, p. 3). She testified that these items are being assessed only in the base finish value. She explained there was a lack of data to price these items and they did not want to add to the value any more than they already had.

Analysis & Conclusions of Law

Kern contends the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1).

To prove inequity, a taxpayer may show 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). Here, we find Kern did not demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, 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 (2018) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* It is insufficient to simply compare the subject property's assessed value to the assessments of other properties or to compare the rate of change in assessment amongst properties.

Kern offered two comparables located at 2184 Echo Hill Road and 3851 29th Avenue, but submitted no analysis of these properties and provided no evidence, such as a property record card or multiple listing sheet, for PAAB to determine their comparability to the subject property. Even if PAAB took judicial notice of their online property record cards pursuant to Iowa Admin. Code R. 701-126.7(3), Kern testified the Assessor's website does not specify a valuation for the outbuildings, making comparison of these properties with the subject impossible. McFarland testified these outbuildings are steel utility buildings. If so, they are likely valued using a different cost schedule from the IOWA REAL PROPERTY APPRAISAL MANUAL. MANUAL pp. 7-69 & 8-32, available at <https://tax.iowa.gov/iowa-real-property-appraisal-manual>. Finally, there is no evidence in the record identifying a market value for these properties or that either had recently sold, a requirement for calculating an assessment/sale price ratio.

Further, the *Maxwell* analysis cannot be completed as an assessment to sale price ratio also needs to be developed for the subject property. The subject property did not recently sell, nor did Kern offer evidence of its January 1, 2019 market value. A ratio for similar properties as well as the subject property is required in order to determine if the subject property is assessed at a higher proportion of its actual value than other sale properties.

Viewing the record as a whole, we find Kern failed to prove the subject property's assessed value is inequitable as compared with the assessments of other like properties.

Order

PAAB HEREBY AFFIRMS the Linn County Board of Review's action.

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 sections 441.37B and Chapter 17A.19 (2019).



Dennis Loll, Board Member



Karen Oberman, Board Member



Elizabeth Goodman, Board Member

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Dustin Kern by eFile

Linn County Board of Review by eFile