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

PAAB Docket No. 2018-025-10029R

Parcel No. 16-20-402-002

Tercio L. Lopes and Lauma Dimpere,

Appellants,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came before the Property Assessment Appeal Board (PAAB) on April 30, 2019. Tercio Lopes and Lauma Dimpere were represented by Rick Wanamaker of Iowa Realty, West Des Moines. Deputy Dallas County Assessor Brian Arnold represented the Dallas County Board of Review.

Lopes and Dimpere (hereinafter referred to as Lopes) own a residential property located at 31600 Silverado Lane, Waukee. The property's January 1, 2018 assessment was set at $1,477,190, allocated as $200,000 in land value and $1,277,190 in dwelling value. (Ex. A).

Lopes petitioned the Board of Review contending the subject property's assessment was not equitable as compared with assessments of other like property and that it was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2018). The Board of Review denied the petition.

Lopes then appealed to PAAB re-asserting their claims.

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 701-126.2(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 listed as a one-story contemporary style home built in 1994. The home has 6374 square feet of gross living area, a walk-out basement with 4875 square feet of living-quarter-quality finish, several porches, and an attached garage. The subject's gross living area includes 968 square feet of finished open loft area. It is listed in normal condition and has an E+10 executive-quality grade. The site is 5.40 acres. (Ex. A). The property also has a 1440 square foot steel utility building constructed in 2002.

Rick Wanamaker represented Lopes. He gave a brief history of the property, stating the subject had been purchased in a foreclosure sale in 2010 for $420,000. After the purchase, the appearance of the exterior was altered and interior remodeling was completed. He testified the updates were needed due to a lack of maintenance and updates prior to its purchase. He also highlighted a lack of sales over one million dollars

and pointed out that cost does not always equal value, especially for properties in this price range.

Lopes submitted an appraisal by Brent Kimble of The Appraisal Company, who opined a value of $1,175,000 for the subject property as of March 27, 2019. The appraisal was prepared for the owners' for private use. (Ex. 1). The appraisal relies on the sales comparison approach to value and used six comparables to form an opinion of value, which are summarized in the following table.

Address	**Sale Price**	**Sale Date**	**Design**	**Age**	**Gross Living Area**	**Garage**
Subject	NA	NA	1.5 Sty	25	6374	2 Att
33425 Waterberry Cir	$940,000	8/9/2018	1.5 Sty	20	3847	3 Att
3862 Timberline Dr	$1,199,000	7/11/2017	2 Sty	21	5908	3 Att
105 Fox Landing	$1,260,000	6/4/2018	1.5 Sty	2	3329	4 Att
31634 Silverado Ln	$1,250,000	Listing	1 Sty	18	3407	3 Att
31902 Silverado Pt	$898,500	Listing	1.5 Sty	27	3723	4 Att
31495 Silverado Ln	$1,425,000	Listing	1 Sty	5	5473	3 Att

Kimble indicated this was a difficult assignment with very few comparables. He stated that it was difficult to find comparables of similar size and that this market prefers one-story homes to multi-level homes. Kimble adjusted the comparables and concluded a range of value between $968,050 and $1,356,300.

Arnold was critical of the appraisal's March 2019 date of value, more than a year after the 2018 assessment date. Arnold asserted the valuation date affected Kimble's comparable selection and may have kept him from using sales that were relevant for the 2018 assessment date. The appraisal states that comparable sales were limited, so the appraiser had to search back two years. This is nine months prior to the assessment date at issue.

Arnold referenced a sale located at 34984 Maffitt Lake Road, Cumming, which Wannamaker submitted in the Board of Review protest. He included photographs and data pertaining to this property and believes it would support the 2018 assessment. (Ex. K). Arnold testified this sale had similarities to the subject, but he believed it was likely excluded from the appraisal due to its sale date in 2016. Wanamaker countered that he was knowledgeable of the sale of that property; noting it had over twenty-four acres, a swimming pool, a heated and cooled outbuilding, and included seller concessions such as furniture in the sale. Wanamaker believes the Maffitt Lake Road property's large site had development potential, which also had a major impact on its sale price. Arnold disagrees and contends the plat of this property shows that the site does not have development potential. (Ex.K – Pg.16). Neither Arnold nor Wannamaker adjusted this sale for differences between it and the subject property to arrive at an opinion of market value.

Arnold was critical of Kimble's appraisal for listing the subject as a one-and-a-half story home. He asserts the subject is a one-story with a loft. Arnold testified that he had inspected the subject and found the loft had no rooms and stated that for the most part it is not living area. Kimble's appraisal indicates three bedrooms and 6030 square feet of living area are located on the main level; and a den, loft and media area containing 344 square feet of living area are on the upper level. According to the IOWA REAL PROPERTY APPRAISAL MANUAL (MANUAL), the subject is correctly identified by the Dallas County Assessor as a one-story design. (7-44, 45). However, other references are vague in defining a one-and-a-half-story home. Some definitions state that a one-and-a-half-story home has an upper level that is smaller than the main level and others state that it is a home that has a loft area. The indicated design in the appraisal is a subjective "label" that is the opinion of the appraiser and is to be reflective of the subject's market area. The label itself has no effect on the final value. However, Kimble concluded that one-story homes are superior in design compared to properties with multiple levels. Despite the subject's large square footage and three bedrooms on the main level; Kimble concludes the subject's layout is inferior to a one-story home. He makes a downward $50,000 adjustment to the one-story properties (Comparables 4 and

6). The subject has greater main level living area than Comparable 6 and also has the finished loft area that Comparable 6 lacks; but in Kimble's opinion it is inferior for these two factors after receiving a downward design adjustment. Comparable 4 receives similar adjustments in Kimble's appraisal, with the additional living area on the upper level having a value of $50 per square foot, but as a result of being a multi-level home receives a downward $50,000 adjustment. Therefore, the result of having the upper level finish is a detriment in Kimble's opinion.

Arnold also questions if Kimble took the subject's remodeling into consideration because no documentation was in the appraisal regarding the updates. He asserted that Kimble did not report an opinion of effective age for the subject property. Kimble reported an effective age of ten years in the Improvements Analysis section of the appraisal. (Ex.1, p. 6). The property record card indicates the subject is in normal condition and lists 23% physical depreciation. Wanamaker acknowledged there are items in the appraisal that may not be correct or documented, but believes appraisals are never perfect. Wanamaker testified there are very few sales of homes over one million dollars and, when listed, they can take years to market.

Arnold also questioned the garage and age adjustments. He believes the subject's garage would have greater appeal than a typical two-car garage due to its large size and that the subject also has an additional basement garage that would have additional appeal and value despite lacking a driveway. He testified the property was originally constructed as a three-car garage and the location of the garage door was changed during remodeling. At the same time, the driveway to the basement garage was removed. Arnold further asserted that Kimble's age adjustments are too large due to the subject's extensive remodeling. Wanamaker noted that in this price range a two-car garage would have a significant negative impact on price and appeal, and contends that despite its remodeled condition, the subject still has some older design elements and features.

The property's assessment was set based on a cost approach to value. (Ex. A). The Assessor determined a land value of $200,000 for the subject's 5.4-acres. Upon our review of the Assessor's cost approach for the improvements, we find it was

completed based on the pricing schedules included in the MANUAL, which the Assessor is required to follow. § 441.21(2); IOWA REAL PROPERTY APPRAISAL MANUAL (2008), *available at* https://tax.iowa.gov/iowa-realproperty-appraisal-manual. The property record card lists a reproduction cost new of $1,700,263 and building total value of $1,309,200, and concluded a final improvement value of $1,277,190. (Ex. A). Physical depreciation is listed as 23% and no functional or external obsolescence was applied.

Analysis & Conclusions of Law

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

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). Lopes 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*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2017 sales) and assessed values (2018 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. Because the *Maxwell* test requires a showing of the subject property's actual market value and Lopes' over assessment claim requires the same showing, we forgo further equity analysis and turn to their 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). If PAAB determines Lopes 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). The taxpayer bears the burden of proof to show his property is assessed for more than authorized by law. § 441.21(3).

Lopes submitted the Kimble appraisal, which concluded a market value of $1,175,000 as of March 2019. Arnold was critical of the appraisal due to the date of value and believed it affected comparable selection. We agree with his assertion and note that Kimble reported that he searched for sales only nine months prior to the assessment date, but we further note that comparables 1, 2, and 3 are closed sales that are relevant to the assessment at issue.

Arnold questioned why 34984 Maffitt Lake Road, Cumming, was not used for comparison to the subject in the Kimble appraisal, and suggested it may be due to Kimble's date of value. In Arnold's opinion this sale is similar to the subject and supports the assessed value. However, Wanamaker was knowledgeable regarding this property and sale, and brought into question how much credence it could be given. Neither Arnold nor Wanamaker made adjustments to this sale for differences between it and the subject property. Further, due to the reported features and conditions of sale, we do not give it any weight.

Arnold questioned Kimble's listing of the subject's design as a one-and-a-half story, and noted the assessor lists it as a one-story home. Because of subject's layout with three bedrooms and nearly 6000 square feet of living area on the main level, we agree the market would consider the subject to be more similar to a one-story home than a multiple level dwelling. The appraisal includes adjustments at $50 per square foot of living area and a $50,000 adjustment for differences in design between a one-story home and a multi-level home. There is no adjustment between the subject and comparable 2, a two-story design home, which we find the least similar in layout. Design adjustments were made to comparables 4 and 6. These two properties are already in question due to being non-closed comparables and being less reflective of the market conditions at issue. No design adjustments are made to comparables 1, 2, and 3 that are closed sales. We find the misapplication or non-application of design adjustments may have caused Kimble to undervalue the subject property.

Wanamaker and Arnold acknowledged the subject had been extensively remodeled between 2013 and 2016. Arnold questioned if Kimble had taken into consideration the subject's extensive remodeling since there is minimal documentation in the report. Wanamaker stated that while the subject had been remodeled, it still had an older layout and some older features. We agree the appraisal lacks documentation pertaining to the subject's condition and updates, but also recognize the appraisal lists an effective age of 10 years which is significantly less than the actual age. This may suggest the updates were considered. Ultimately, we find Kimble's lack of written analysis limits our ability to determine if he adequately considered and adjusted for this element of comparison.

Arnold further asserts that Kimble's adjustments for garage and age were too large. Wanamaker contends that a two-car garage in subject's price range would have significant market resistance and the adjustment is reasonable. We find Wanamaker credible in this analysis and believe the garage adjustments to be reasonable for this property.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id*. The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "[A]lternative methods to the comparable sales approach to valuation of property cannot be used when adequate evidence of comparable sales is available to readily establish market value by that method." *Compiano*, 771 N.W.2d at 398. (emphasis added). However, where the market value of the property cannot be readily established using comparable sales, one can turn to other factors to determine the value. § 441.21(2) (emphasis added); *Soifer*, 759 N.W.2d at 779. But, even if other factors are used, comparables sales data may still be considered. *Cablevision Associates VI v. Fort Dodge, Iowa Bd. of Review*, 424 N.W.2d 212, 216 (Iowa 1988) (citing *Equitable Life Ins. Co. v. Bd. of Review of City of Des Moines*, 281 N.W.2d 821, 825-26 (Iowa 1979).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W. 2d at 783. “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 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86,88 (Iowa 1977)).

While we acknowledge the weaknesses in Kimble’s appraisal, we must also recognize the property’s unique size, quality, and features that reduce the pool of potential buyers that could impact its value and, at the same time, present problems in identifying comparable property sales to estimate its value. Kimble developed only the sales comparison approach. “The sales comparison approach is most useful when a number of similar properties have recently been sold. The sales comparison approach is applicable when sufficient data on recent market transactions is available” THE APPRAISAL OF REAL ESTATE 45 (14th ed. 2013). Kimble, Arnold, and Wanamaker all agree that similar sales are limited for the subject. After conceding the limitations of the appraisal, however, we also acknowledge that the comparables appear to be market alternatives for the subject and suggest the subject’s assessment is excessive

After reviewing all of the evidence, we are persuaded that the subject property’s assessment exceeds its fair market value. However, we find the weaknesses in Kimble’s appraisal are significant enough to render it unpersuasive on its own to establish the subject’s actual value as of January 1, 2018. Iowa Code states that the sales approach will be used to determine actual value when adequate data is available to determine market value. The record supports a lack of sales data which, along with the weaknesses of Kimble’s appraisal, limits the reliability of this approach. Even after considering the inconsistencies of the adjustments made in the appraisal, we see substantial support for our conclusion that the subject’s assessment is excessive. While we believe Kimble’s adjustments may have caused an undervaluation of the property, we find his appraisal is still credible and worthy of consideration.

When sales data is limited the appraiser may need to look to other approaches to value. § 441.21(2). Kimble did not complete the cost approach as part of his appraisal, but it is developed by the assessor. The assessed value is based on the cost approach

that was developed and is the only other approach developed and part of the record. The cost approach was completed in a manner consistent with the MANUAL. The property record card shows the subject is in normal condition with an effective age of 25 years and 23% physical depreciation. After adjustments were made to account for depreciation, grade, and features the assessor reconciles to a final total opinion of value of $1,477,190.

This Board finds Kimble's sales approach and the assessor's cost approach equally persuasive. Taken together, the approaches indicate the subject is assessed in excess of its fair market value. Giving equal weight to each approach, the subject's fair market value is approximately $1,326,095.

Order

PAAB HEREBY MODIFIES the Dallas County Board of Review's action and orders the subject property's January 1, 2018 assessed value be set at $1,326,095.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2018).

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).

Dennis Loll, Board Member

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