

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

PAAB Docket No. 2018-103-00127M

Parcel Nos. F0064-28, F0064-44, and F0064-45A

Sieg Iron Lofts LLC,

Appellant,

vs.

City of Davenport Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 13, 2018. Mary Cullen, asset manager with the Alexander Company of Madison, Wisconsin, represented Sieg Iron Lofts, LLC. City attorney Thomas Warner represented the Board of Review.

Sieg Iron Lofts (Sieg) is the owner of a multi-residential apartment complex located at 422 Iowa Street, 424 E 4th Street and 320 E 4th Street, Davenport, Iowa. (Ex. C). The apartment complex's three contiguous parcels operate as a unit. The following table summarizes the January 1, 2018 assessed value for each parcel. (Ex. D).

Parcel	Assessed Land Value	Assessed Improvement Value	Total Assessed Value
F0064-28	\$ 9,120	\$ 13,670	\$ 22,790
F0064-44	\$28,800	\$ 486,435	\$ 515,235
F0064-45A	\$28,800	\$1,551,837	\$1,580,637
Total	\$66,720	\$2,051,942	\$2,118,662

Sieg petitioned the Board of Review contending the subject property is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(2) (2018). The

Board of Review denied the petition. On appeal to PAAB, Sieg now claims there is an error in the assessment. § 441.37(1)(a)(4).

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 may consider any grounds under Iowa Code section 441.37(1) 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 a 0.51-acre site with a two-story brick building, built in 1890, and an attached five-story brick building plus penthouse, built in 1900. Collectively there are 59,708 square feet of gross building area, 53 rental units, and a 2500 square foot paved parking lot. The apartment complex has a mix of market-rent units and Section 42 units. For ten years it received property tax abatement under the Urban Revitalization Tax Exemption program, which has now expired. (Ex. D).

Sieg believes the current assessment will unfairly burden the subject property and cause it to default on its loans once the taxes become payable. (Ex. C). Cullen testified that the assessment relied on abated taxes to arrive at net operating income (NOI). She argued unabated taxes should have been used instead because Sieg no

longer receives a tax abatement exemption. She asserted it is unfair for three years of abated taxes to be calculated for the 2018 assessment as well as being factored in for future assessments, as the subject property is no longer benefiting from property tax exemptions.

Dave Voss, development project manager with the Alexander Company, testified that he initially put the Sieg project together. He noted it was set up with property tax abatement and notes tendered by the City of Davenport to try and close the financial gap. He stated the project has fallen into default and they have had to renegotiate the loans with the City. Repayment of the City notes was dependent on the cash flow generated, in part by the benefits of the property tax abatement.

Voss stated that the subject property’s assessed values have swung wildly over the years, which he believes has caused the property to be over assessed by at least a couple hundred thousand dollars. (Ex. 2).

The following table lists the subject parcels’ past assessments including the gross and net assessment after abatement. (Ex. D).

Address	2014		2015		2016		2017		2018 ¹
	Gross Assessed Value	Net Assessed (Abated) Value	Gross Assessed Value	Net Assessed (Abated) Value	Gross Assessed Value	Net Assessed (Abated) Value	Gross Assessed Value	Net Assessed (Abated) Value	Assessed Value
422 Iowa S	18,300	18,300	18,300	18,300	21,600	21,600	22,790	22,790	22,790
324 E 4th St	775,600	78,545	841,100	143,954	630,700	62,154	527,698	62,158	515,235
320 E 4th St	2,160,700	134,589	2,518,600	492,489	1,757,000	118,289	1,629,693	118,289	1,580,673
Total	2,954,600	231,434	3,378,000	654,743	2,409,300	202,043	2,180,181	203,237	2,118,698

The only recent year the subject property’s assessed value has varied significantly is in 2015. The Assessor notes indicate Sieg did not file its Section 42 form in 2015. (Ex. E). The Assessor notes further indicate Sieg was late filing their Section 42 form in 2017 but that the law had changed to allow for late filing. Therefore, it appears Sieg’s lack of filing most likely caused the abnormally high increase in its 2015 assessed value.

¹ As previously noted, the abatement ended in 2017 and 2018 is the first year without an abated value.

Voss testified that Sieg developed a blended capitalization rate to estimate its value based on the latest rate information provided by the Scott County Assessor's office and the City, as well as a market rate. (Ex. 1). Sieg applied the weighted capitalization rate of 10.47% to its estimated NOI of \$169,294, resulting in a value of \$1,617,000 (rounded). (Ex. 1).

Voss pointed out that the NOI is obviously higher with abated property taxes factored in, which causes the property to appear to have a higher value. But, he argued the value of the subject property is to be based on its income, so factoring in property tax abatements from prior years, when that benefit has expired, is inflating Sieg's 2018 NOI beyond the value that exists. He contends the subject property is not worth its \$2,118,662 assessed value without the property tax abatement in place.

The Board of Review submitted a copy of a Section 42 form that reports three years of income and expenses for calculating a normalized NOI for using the direct capitalization method. (Ex. A). But it is not clear what year the form reflects. Its title indicates it is for the 2016 Assessment, but the reporting periods are 2015, 2016, and 2017. It is also not signed or dated, but does list Cullen as the person who completed it. The listed real estate taxes paid for each of the reporting years does not match the actual amounts paid to the Treasurer's Office for real estate taxes in 2015, 2016, and 2017, or the amounts listed by Sieg in its assessment methodology table. (Exs. A, D & 1). The following table demonstrates the inconsistencies.

Reported By	2015	2016	2017
Treasurer's Office	\$ 9,306	\$ 17,143	\$ 16,580
Sieg Section 42 Form	\$ 6,097	\$ 17,128	\$ 5,588
Sieg Assessment Methodology Table	\$ 8,733	\$ 24,534	\$ 8,005

The Board of Review noted the capitalization rate for Section 42 housing is set by the Iowa Department of Revenue every year. It contends Sieg did not use the correct rate for the year at issue in its calculations. (Exs. 1 & A). It also argued the taxpayer used an improper methodology in arriving at its opinion of the property's correct value.

Analysis & Conclusions of Law

Sieg contends there is an error in the subject property's assessment because the NOI used to set its 2018 assessment included an incorrect expense for property taxes. § 441.37(1)(a)(d).

When assessing Section 42 property, the assessor shall value the property using “the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.” § 441.21(2).

Iowa Administrative Code Rule 701-71.5(2)(a-b) explains the productive and earning capacity method as well as a direct capitalization method that assessors may use to value Section 42 properties. To achieve this end, the rule also provides that “[i]t *shall* be the responsibility of the property owner to file income and expense data with the local assessor by March 1 of each year. The assessor may require the filing of additional information if deemed necessary.” r. 701-71.5(1)(c).

Sieg contends that in a situation where a Section 42 property previously received an abatement, but no longer does, an assessor should deduct tax expenses equal to the amount that would have been paid had no abatement existed in calculating NOI. Sieg asserts the Assessor's Office has historically calculated NOI incorrectly for the subject property by expensing the actual taxes paid after abatement, rather than the taxes that would have been paid absent abatement. It offered its own calculations of these figures. (Ex. 1).

Without deciding on the correct interpretation of Iowa Admin. Code Rule 701-71.5(2), we believe there may be merit to Sieg's argument based on the language and intent of the rule. Because of deficiencies in Sieg's methodology, however, we are not convinced it has shown an error in the subject's assessment.

First, Sieg's capitalization rate is incorrect. Further, the taxes (before abatement) and NOI delineated in its exhibit do not match anything else in the record, nor did Sieg provide any documentation to corroborate how it calculated these figures.

Second, we note, is it unclear whether Sieg submitted a complete and accurate Section 42 reporting form to the Assessor's Office for its 2018 assessment. The

numbers reported in the Section 42 form are nowhere close to the NOI Sieg calculated in its "Impact of Assessment Methodology." (Ex. 1).

Finally, it is unclear how the Assessor's Office actually calculated the subject property's January 1, 2018 assessed value. All that can be determined from the property record cards in the record is that the Assessor's Office is clearly valuing the properties for less than the value determined using the cost method (IOWA REAL PROPERTY APPRAISAL MANUAL).

Based on the foregoing, we cannot compare Sieg's figures to how the property was actually assessed. We can conclude at the very least that Sieg's own figures are wrong because it applied an incorrect capitalization rate. Without knowing how the assessor's figures were actually derived we are unable to ascertain whether an error has occurred. Viewing the record as a whole, we find Sieg has not met its burden and has failed to prove its claim.

Order

PAAB HEREBY AFFIRMS the City of Davenport Board of Review's action.

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).



Camille Valley, Presiding Officer



Karen Oberman, Presiding Officer

Copies to:

Mary Cullen for Sieg Iron Lofts LLC by eFile

City of Davenport Board of Review by eFile