

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

PAAB Docket No. 2018-103-10042R

Parcel No. H0024-42

Daniel Sundholm,

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 10, 2018. Daniel Sundholm was self-represented. City of Davenport Assistant Attorney Brian Heyer represented the Board of Review.

Sundholm owns a residential property located at 1410 N Marquette Street, Davenport. The property's January 1, 2018 assessment was \$90,340, allocated as \$5900 in land value and \$84,440 in dwelling value. (Ex. B).

Sundholm petitioned the Board of Review contending the subject property was not equitably assessed, that there was an error in the assessment, and that there is fraud or misconduct in the assessment. Iowa Code § 441.37(1)(a)(1, 4, & 5) (2018). The Board of Review denied the petition.

Sundholm then appealed to PAAB reasserting his error and fraud/misconduct 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) 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 listed as a two-story brick home built in 1932 and listed as having 2588 square feet of gross living area. The improvements, however, are actually a converted fire station. The improvements are listed as an “OBSV” (observed) condition with 40% physical depreciation. The improvements also have been adjusted downward 20% for functional obsolescence and 10% for economic obsolescence. The combined total depreciation/obsolescence applied to the cost new of the improvements is approximately 61%. The site is 0.055 acres. (Ex. B).

Sundholm argues several errors exist in the assessment of his property. The first is the size of the living area. He asserts the first floor is used as a garage and storage and should not be included in the living area. (Appeal). Notes on the property record card indicate the second floor has been converted to an apartment, but the first floor has not been converted. Additionally, it is noted that the interior of the first floor is original and well maintained but it is used for storage. Although it is of poor quality, the only photo in the record of the subject property shows an overhead garage door consistent with Sundholm’s claim he uses the space as a garage. (Ex. B, p. 5-6).

Sundholm also asserted his site is the only site that is assessed based on a front-foot method rather than on a square-foot method. (Appeal). The Board of Review submitted an aerial photograph of eight surrounding properties and their assessed land value per front foot. (Ex. A). This map shows a front-foot value for those properties as well as a square-foot value. We do not know if they are valued on a front-foot rate like the subject or using a different method. If they are indeed valued on a front-foot rate, it appears the subject property's front-foot rate on Marquette Street is \$250 while five others on the same street are valued at only \$160 per front foot. We do not have enough information about these properties to determine if other factors, such a size, cause this disparity.

Lastly, Sundholm asserts his property was not given a Homestead credit for the 2018 assessment. Sundholm testified he went to the Assessor's Office to apply for the credit. At that time, he met privately with County Assessor Nick Van Camp for over thirty minutes. Sundholm asserts that when he left the Assessor's Office after this meeting he was assured everything was completed to have the Homestead credit applied to his property. At his 2018 Board of Review hearing, however, Van Camp denied an application for the credit had been submitted. (Appeal). Notes on the property record card state the Assessor's Office staff was preparing the Homestead credit application, but Sundholm left without signing it. (Ex. B, p. 7). It also notes a reminder postcard was sent to Sundholm on April 4, 2017.

Moving to his fraud or misconduct claim, Sundholm referred to the appeal of his 2016 assessment with PAAB. (See PAAB Docket 2016-103-00249D). He asserts the Assessor's Office changed its website after his 2016 petition to the Board of Review, resulting in the removal of a comparable search query for his property. (Appeal). He explained that during the 2016 PAAB hearing, Christina Connelly, an appraiser with the City of Davenport Assessor's Office, testified for the Board of Review. At that time, she testified the website had not been changed. But during the Homestead credit meeting with Van Camp, Sundholm says Van Camp admitted to changing the website, which Sundholm stated he recorded but did not offer into evidence. In Sundholm's opinion, the action of changing the website was to specifically prohibit him from accurately

identifying comparable properties in preparation for his appeal. He argues this is demonstrative of misconduct.

Sundholm also testified that none of the neighboring properties assessments increased from 2017 to 2018, but his did. He noted the assessment of another converted fire station on E Locust Street had not changed for several years. In fact, he said the current assessment of the E Locust property is \$86,790, which is less than his assessment, but it has a bigger site, larger building, and outside parking unlike the subject property. Moreover, the E Locust property is currently listed for sale at \$190,000. Based on the foregoing, Sundholm believes the only explanation for the repeated increase to his assessment alone is that there is misconduct.

Analysis & Conclusions of Law

Sundholm contends there is an error in the assessment and that there has been fraud or misconduct in the assessment. Iowa Code § 441.37(1)(a)(4 & 5).

Sundholm first contends his property's living area is misreported because the first floor is only used for storage and was formerly the firehouse garage. There is nothing in the record to dispute Sundholm's testimony. The property has been adjusted downward 20% for functional obsolescence and 10% for economic obsolescence but there is no explanation for these adjustments.

Sundholm also contends his property was valued on a front-foot basis compared to neighboring properties that were not. The only evidence of neighboring land assessments in the record is an aerial map with notations. (Ex. A). The notations appear to indicate that other properties in the neighborhood may also be valued on a front-foot basis. The only distinction between these properties and the subject is the value per front foot assigned to the lots. It appears the subject property's rate per front foot is \$250 compared to other properties on Marquette being valued at \$160 per front foot. There was no explanation of this difference, nor is there any other information about these properties, such as their lot size that might explain these differences. Without this information, we cannot conclude there is an error in Sundholm's assessment.

Finally, Sundholm contends fraud or misconduct exist in the assessment of his property because his was the only one that changed in value for the 2018 assessment. He asserts other irregularities exist with his property on the County's website including no comparable sales now appear when a search is conducted even though it previously generated a list of comparable properties to the subject property. 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. Other than his testimony, Sundholm submitted no corroborating evidence to support his assertion that his property was the only one reassessed in 2018. As for the change to the website, we cannot begin to speculate why this information may have changed, nor can we conclude that just because it did change that it was done to contravene any applicable law.

Based on all of the foregoing, we conclude that Sundholm has failed to show any errors in his assessment. Moreover, we conclude there was no evidence of fraud or misconduct in the assessment.

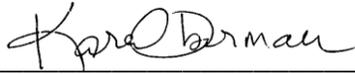
Order

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.

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

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