

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

PAAB Docket No. 2019-038-00014C

Parcel No. 871711403002

**Monte D Bowman (JIYA Hospitality, LLC),**

Appellant,

vs.

**Grundy County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on April 17, 2020. Monte Bowman of AIVRAS, a tax consulting company, represented Jiya Hospitality, LLC (Jiya). Grundy County Assessor John Freese represented the Board of Review.

Jiya owns a commercial property located at 2101 Commerce Drive, Grundy Center. Its January 1, 2019, assessment was set at \$1,041,190, allocated as \$68,220 in land value and \$972,970 in improvement value. (Ex. B).

Jiya petitioned the Board of Review contending the property is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). (Ex. F). The Board of Review denied the petition. (Ex. I).

Jiya then appealed to PAAB reasserting that the property is assessed for more than the value authorized by law. § 441.37(1)(a)(2).

**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. § 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 R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* 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 the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is a thirty-unit, two-story hotel built in 1996, operated as an AmericInn. It has 18,450 square feet of gross building area, a canopy entrance, an enclosed swimming pool, and a small utility shed. The 1.274-acre site is also improved with 13,200 square feet of concrete paving, signage, and yard lighting. The property is listed in normal condition with a 4+10 grade (average quality). (Ex. B).

Bowman represented and testified on behalf of Jiya. For more than thirty years, Bowman has represented clients for property tax protests in every state for a variety of property types.

Bowman explained that Jiya purchased the subject property in September 2018, with a reported sale price of \$1,425,000. (Bowman Statement of Appeal; Ex. A; Ex. B, p. 1; Ex. C; & Ex. 1). The sale is reported on the property record card as a normal transaction and Bowman agreed that was an accurate reflection of the sale.

To his knowledge, Bowman testified there have not been any appraisals of the subject property. He acknowledged the seller may have had an appraisal of the property prior to selling it, but it was not made available to the buyer. Bowman explained that in the case of this property, the buyer may have relied on a “rule of thumb” to make a determination of value when deciding whether to purchase the property based primarily on their own investment requirements.

The record includes multiple Declaration of Value (DOV) forms for the subject property and the following table summarizes the reported values of each. (Exs. C, F1, & K).

Exhibit	Instrument Date of DOV	Preparer of DOV	Total Amount Paid or Total Tangible Assets	Amount Paid for Personal Property	Amount Paid for Real Property
C	Sep-18	N. Patel	\$1,575,000	\$150,000	\$1,425,000
F1	Apr-19	D. Chaudhari	\$1,000,000	\$150,000	\$850,000
K	Mar-20	D. Chaudhari	\$1,064,640	\$400,990	\$663,740

Bowman testified the original DOV completed by the seller of the subject property was not accurate because it did not deduct intangible assets, which he asserts includes goodwill and use value. (Ex. 1). Subsequently, a representative of Jiya resubmitted two DOVs as reflected in the above table. (F1 & K).

The Board of Review believes the DOV is to be filled out at the time of the sale, whereas Bowman asserts the DOV can be filled out or amended for up to three years after the sale.<sup>1</sup> Bowman testified the more recent DOVs were completed and filed after Jiya had access to the Federal Asset Report and asset allocation form. (Exs. 4/K1 & 5/K2).

In his representation of Jiya, Bowman explained he considered the total sale price and then broke down components of the transaction for allocation purposes (Exs. 5/K1). Ultimately, Bowman uses the following formula to arrive at his opinion of the property's real estate value:

<sup>1</sup> Iowa Code section 428.1 requires the filing of a Declaration of Value (DOV) in certain situations in order to calculate the real estate transfer tax owed by the seller. That code section does not speak to the ability to amend a DOV or a timeframe for doing so, but does require assessors to retain DOVs for at least three years.

Total Consideration

less Goodwill

less Use Value

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Total Value of Real Estate and Personal Property (FFE)

less Value of Personal Property (FFE)

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Value of Real Estate

Using this formula, Bowman concludes the value of the subject real estate is \$663,740. (Ex. 5).

Bowman testified Jiya determined the value of the goodwill based on a checklist Bowman provided. Jiya indicated a loyal customer base, the location, low employee turnover, franchises, and name recognition encompassed the goodwill and concluded the value of that goodwill to Jiya was \$250,000. Frese questioned why the goodwill value Jiya determined changed between the April 2019 and May 2020 DOVs. (Compare F2 & K1).

Bowman argues use value must be deducted from the sales price pursuant to section 441.21(2). To calculate use value, Bowman uses the following formula: (Goodwill + Personal Property (FFE)) divided by 2 then multiplied by 80% = Use Value. He admitted the factors of the calculation are somewhat fluid and dependent upon the particular buyer/investor. In explaining his formula, Bowman referenced what other states consider when determining an allocation between real property, personal property, and intangible assets, but provided no citations.

Bowman explained Jiya relied on a Federal Asset Report to ascertain the value allocation of the fixtures, furniture, and equipment (FFE) or personal property that was reported on the most recently filed DOV. (Exs. K & 5). Bowman testified to his knowledge the seller created the Federal Asset Report and he was unaware if it was used solely for internal purposes or if it was used for federal tax purposes. He testified the \$400,990 was determined to be FFE by adding together lines 2, 7, 8, and 9 on the

Federal Asset Report. He stated the FFE figure was based on the cost, which we assume to be the replacement cost new, rather than the current depreciated value. The current value of the FFE shown on Lines 2, 7, 8, and 9 of the Federal Asset Report is \$72,749. We note that Bowman uses the FFE valuation in his calculation of use value and therefore an error in his determination of FFE value would also impact the results of that calculation.

The \$400,990 FFE figure was then used in the asset allocation formula (Exs. 5/K1). He explained the asset allocation form was created as a consultation tool for his clients. The reported figures on the form are estimated and populated by the property owners.

Bowman testified he made no effort to find or consider any comparable sales. Bowman did not develop any other approaches to value such as the income or cost approach. Jiya relied solely on the allocation formula.

Lastly, we note that Bowman's testimony indicated he did not participate in the sales transaction and we find his testimony lacked sufficient detail and personal knowledge of the transaction and documents related thereto to be wholly credible. For example, he relied on the Federal Asset Report to complete his value opinion, but could not state for certain who completed the document, its purpose, and had no personal knowledge regarding its contents.

Further, we find his testimony regarding the Federal Asset Report of questionable reliability. For instance, he testified the Date In Service column indicated the date the prior owner bought those items. First, we note that many of the items have been significantly depreciated and we question whether the Date in Service actually reflects the date those items were purchased. Second, many of the items show a Date In Service on or after Jiya's September 12, 2018, purchase of the property.

Freese testified on behalf of the Board of Review. Freese explained commercial values in Grundy County increased by 41% for the 2019 assessment. (Ex. A). At the time of sale in 2018, the subject property was assessed at \$26,221 per unit. It sold for \$47,500 per unit and the 2019 assessed value was set at \$34,706 per unit, roughly a 32% increase over the prior assessed value.

Freese was critical of the formula Bowman relied on to ascertain an opinion of use value. He is unaware of any support or professional citations for this method of determining use value. Freese also noted there are discrepancies in the determination of land value between the appellant's documents. (Exs. 4/K2 & 5/K1). Freese also pointed out the Federal Asset Report shows an undepreciated building value of \$945,000 and land value of \$236,250 for a total allocated value of the real property of \$1,181,250, which is greater than the January 1, 2019, assessed value. (Exs. 5/K1).

The Board of Review submitted three sales that occurred between March 2019 and March 2020. (Ex. L). Although unadjusted for differences between them and the subject property, Freese noted the sale price per unit of these hotel sales range from roughly \$33,260 to \$39,500. The subject's assessed value of \$34,706 per unit is at the low end of this unadjusted range.

### **Analysis & Conclusions of Law**

Jiya contends its property is assessed for more than the value authorized by law. Iowa Code section 441.37(1)(a)(2). It contends the subject's current assessment of \$1,041,190 is excessive and the property should be assessed for \$663,740. Jiya bears the burden of proof. § 441.21(3).

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).

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). "Sale prices of the property or comparable properties in normal transactions reflecting market

value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value.”

§ 441.21(1)(b).

Iowa Code section 441.21(2) prohibits the consideration of “[s]pecial value or use value of the property to its present owner, and the good will or value of a business which uses the property as distinguished from the value of the property as property.” Iowa courts have narrowly interpreted this provision. See *Wellmark, Inc. v. Polk County Board of Review*, 875 N.W.2d 667, 680 (Iowa 2016) (providing an overview of cases interpreting this subsection). “The prohibition of section 441.21(2) against including *specified* intangibles (special value or use value of the property to its present owner and the goodwill or value using the property) does not require an assessor to disregard *all* intangibles.” *Merle Hay Mall v. City of Des Moines Bd. of Review*, 564 N.W.2d 419, 423 (Iowa 1997).

Here, there is no debate the subject’s 2018 sale was normal and, by virtue of the difference between the sales price and current assessment, there also appears to be consensus that the sale price included non-assessable personal property or intangible assets, such as goodwill or use value. The primary debate revolves around whether Jiya’s allocation of the sale price to tangible and intangible assets is reasonable. For the following reasons,<sup>2</sup> we find it is not.

Our concerns with Jiya’s approach are both methodological and factual. We conclude Jiya’s method of allocating value is atypical and not fully explained. While the necessity of determining an allocation between tangible and intangible assets from a sale is not unusual, Jiya’s methodology of arriving at the allocation here does not appear to be based on typical methods and formulas recognized by Iowa law or real estate appraisal practice. *Id.* at 424 (rejecting the taxpayer’s “business enterprise value theory” because it was not a recognized and uniform appraisal method under section 441.21(2)). See Int’l Assoc. of Assessing Officers, *Understanding Intangible Assets and*

<sup>2</sup> For the reasons discussed in the conclusions, we find Jiya has not provided competent evidence the subject’s value is different than the assessed value to shift the burden of proof to the Board of Review. § 441.21(3).

*Real Estate: A Guide for Real Property Valuation Professionals* 8-15 (Nov. 12, 2016), available at [https://www.iaao.org/library/2017\\_Intangibles\\_web.pdf](https://www.iaao.org/library/2017_Intangibles_web.pdf) (describing various methods for estimating intangible asset value). Jiya has provided no support or citations for its allocation methodology and we have found none in typical real estate appraisal sources such as the Appraisal Institute. Jiya also has not provided a sufficient explanation as to how the goodwill value was determined. Further, Jiya's determination of use value is not based on any recognized appraisal methodology of which we are aware and, as will be discussed, we have concerns about the reliability of the FFE and goodwill figures used to determine the use value.

In addition to the significant questions we have about Jiya's methodology, we find facts that weigh against relying on Jiya's value estimates for FFE, goodwill, and use value. We find no reliance can be placed on Jiya's indication of the FFE value, nor do we believe Jiya's allocations are consistent with the market value requirements of section 441.21. Jiya relies on the Federal Asset Report to determine the value of the subject's FFE, which is also used in calculating use value. Based on Bowman's testimony, Jiya's FFE estimate appears to be rely on a replacement cost new to the prior owner, which may or may not be consistent with the FFE's market value at the time of sale. In order to reliably estimate the market value of the subject's real estate based on the subject's sale price, we must also know the market value of the subject's FFE at the time of the sale. Additionally, the record indicates Jiya's FFE estimate may improperly include items obtained after the sale. Lastly, Bowman was unsure who completed the document, for what purpose it was completed, and he had no personal knowledge regarding its contents. For these reasons, we conclude Jiya's estimate of FFE value is not credible.

We also find Jiya's estimation of goodwill value lacks sufficient evidentiary support. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 518 (Iowa 1985) ("[P]laintiffs were required to offer a sufficient factual basis for the opinions to take them out of the realm of mere speculation and conjecture."). We find there is no rationale for Jiya's estimate of the goodwill value included in the sale. Based on Bowman's testimony, Jiya determined the value of the goodwill itself and there is no basis to



determine how it arrived at the figures used. The Board of Review pointed out the goodwill estimates have changed, which also causes us to question their reliability. Because, as we have discussed, we find Jiya's estimates of FFE and goodwill value unreliable and those estimates were used to calculate use value, we also must conclude its estimate of use value is likewise unreliable. As we find Jiya's foregoing value estimates are unreliable, we necessarily conclude that Jiya's residual value estimate for the subject's real estate is also not credible.

Finally, Jiya has provided no other sales evidence in support of its claim. The Board of Review's sales evidence supports the subject's current assessed value.

Viewing the record as a whole, we find Jiya failed to support its claim.

### **Order**


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

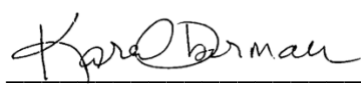
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

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.

  
Dennis Loll, Board Member

  
Elizabeth Goodman, Board Member

  
Karen Oberman, Board Member

Copies to:

Monte Bowman for Jiya Hospitality by eFile

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