

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

PAAB Docket No. 2021-077-10087R

Parcel No. 080/02058-000-000

Douglas S. Johnson,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 28, 2021. Douglas Johnson was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Johnson owns a residential property located at 2724 Moyer Street, Des Moines, Iowa. Its January 1, 2021, assessment was set at \$66,300, allocated as \$21,700 in land value, and \$44,600 in dwelling value. (Ex. A).

Johnson petitioned the Board of Review contending the assessment was not equitable as compared with the assessment of other like property. Iowa Code § 441.37(1)(a)(1)(a) (2021). (Ex. C). The Board of Review denied the petition. (Ex. B).

Johnson then appealed to PAAB re-asserting the property is inequitably assessed and that there was an error in the assessment.
§ 441.37(1)(a)(1)(a & d).

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 one-story home built in 1924. It has 872 square feet of gross living area, an unfinished basement, and a 420-square-foot detached garage built in 1959. The dwelling is listed in below normal condition with a 5+05 Grade (below average quality). A 55% physical depreciation adjustment has been applied, and an additional negative 25% functional obsolescence adjustment is applied due to the property's foundation issues. The detached garage receives 60% physical depreciation in the assessment. The site is 0.149 acres. (Ex. A).

Douglas Johnson testified about the home's condition. He had recent photographs on his cell phone which he offered to share at the time of the hearing. Because these photographs had not been previously provided to the Board of Review or its counsel, they were not admitted into the record. Johnson was encouraged to share them with staff from the Assessor's Office after the hearing. Johnson testified the home has only one small bathroom with a poor layout in a state of disrepair, with water damage and severe rot to the flooring under the tub. He described the kitchen as having plywood and Masonite counters, and drywall damage and black mold from a roof leak. He stated the kitchen carpet was 20 years old, the bedroom is covered with a salvaged piece of carpet, and there are mismatched carpet squares in the living room. The basement has condition issues, such as crumbling walls, and leaking. Johnson also

noted deferred maintenance with the home's exterior, including sinking front steps, and multiple extremely rotted windows. He stated he has attempted to address these issues himself as a retired carpenter, but has multiple health issues.¹ He is unwilling to allow an interior inspection of his home, described as his castle, but would permit an exterior inspection and share his photographs of the interior with the Assessor's Office

Douglas' wife Cynthia testified about their concern over a 15% increase in the assessment, following two previous assessment increases. She noted their home is almost 100 years old and should not keep increasing in value. Cynthia described two neighboring properties; 2722 Moyer Street and 2726 Moyer Street, which sold in 2021 and 2011 respectively, as support for their inequity claim. (Ex. C & Appeal). She stated 2722 Moyer sold in January 2021 for \$40,000, yet was assessed in 2021 for \$83,600; and 2726 Moyer sold ten years ago for \$45,000 and was assessed in 2021 for \$86,900. She shared her belief that these purchase prices should result in a lowered assessment. Cynthia asserted these discrepancies indicate inequity and/or error in the subject's assessment. Primarily, she questioned the increase in assessments and acknowledged she and Douglas were unable to attend the Board of Review hearing and requested explanation.

The Board of Review submitted the property record cards and sale information for these properties. (Exs. D-G). Cynthia was not aware that 2722 Moyer Street had sold at tax sale for \$1,867 in August 2020 and that it was transferred to an investment company for \$40,000 in January 2021. (Exs. D & F). She was also unaware, and quite surprised to learn, the property sold recently in September 2021 for \$175,000.

Cynthia was also not aware that 2726 Moyer sold on contract in 2011, but acknowledged it was not a recent sale. (Ex. G). She contends the owner never protested his property's assessments. We note this home was built in 1919, has 944 square feet of gross living area, and is listed in below normal condition, all similar to the subject, but is assessed at \$86,900, \$20,600 more than the subject.

¹ The Johnsons may want to research whether they qualify for the Disabled and Elderly Tax Credit under Iowa Code section 425, subchapter II. Additional information about the credit is available at <https://tax.iowa.gov/tax-credits-and-exemptions>.

Jim Willet, Deputy Polk County Assessor and Director of the residential department, testified on behalf of the Board of Review. Addressing the Johnsons' concern about their property's assessment increase, he described his analysis of "good" residential sales in 2020 in the neighborhood/pocket which indicated a need to adjust assessed values to get to 100% of fair market values. He confirmed the sale of 2722 Moyer Street was not included in that analysis as it was deemed a "bad" sale, not reflecting a fair market exchange, but rather a trade between investors after a tax sale and also an outlier. He suspected the purchaser fixed it up before reselling it later in 2021 for \$175,000.

The Board of Review agreed to visit with the Johnsons, review their photographs, and perform an exterior inspection to ensure the subject property is still accurately listed for future assessments.

Analysis & Conclusions of Law

Johnson contends the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1)(a). He also made a claim of an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(e).

In Iowa, property is to be valued at its actual value. § 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.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* "In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit." *Id.* "When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the

absence of such adjustments.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 783 (Iowa 2009).

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).

Johnson has not identified, and we cannot find, any inconsistency in the assessment methodology applied to the subject and other properties.

Alternatively, to prove inequity, 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 (2020) and assessed (2021) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales and current year assessments of the subject property and comparable properties. It is insufficient to simply compare the subject property’s assessed value to the assessments of other properties.

Johnson submitted two properties for comparison. One sold in 2021 and one sold in 2011. The Board of Review submitted evidence that neither of the sales were normal, arm’s length transactions under section 441.21. We agree. A tax sale is by its nature a distressed sale, which was then followed by an investor trade transaction, and ultimately a resale for \$175,000. (Often referred to as a flip). The Johnsons rely on the investor trade transaction for \$40,000 in January 2021 as reflective of their property’s value. Considering all of the circumstances, however, we find that sale was abnormal and no adjustment was made for any distorting conditions of the sale. The Johnsons also cite to a 2011 contract sale, as indicative of their opinion the assessor has been assessing properties for more than market value. By statute, a contract sale is considered abnormal, and must be adjusted to account for any distorting effects. As a result, we give these sales no additional consideration.

Ultimately, the *Maxwell* analysis cannot be completed as an assessment/sale price ratio also needs to be developed for the subject property. The subject property did

not recently sell, nor did Johnson offer evidence of its January 1, 2021, market value. A ratio for similar properties, as well as the actual value of the subject property, is required in order to determine if the subject property is assessed at a higher proportion of its actual value.

Lastly, Johnson cited to an error in the assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). Although Johnson identified other condition factors he believes affect his property's value, such as a poor foundation, rotted windows, outdated kitchen and bath, and old carpet etc., he offered no evidence showing what impact those issues had on the subject's value. We recognize the assessment does account for certain condition issues with the property through application of depreciation and an obsolescence adjustment. In the absence of any evidence of its market value, we find the evidence does not demonstrate an error in the assessment. We suggest, however, the Johnsons continue to engage in discussions with the assessor if they believe additional consideration of the property's condition is needed.

Viewing the record as a whole, we find Johnson failed to support his claims.

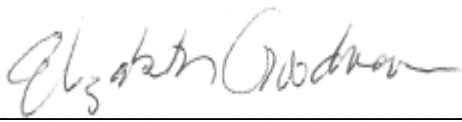
Order

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

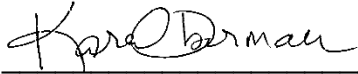
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

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.



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:
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Polk County Board of Review by eFile