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PAAB

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

PAAB Docket No. 2021-077-00423R

Parcel No. 120/05203-209-000

Pete C Crivaro,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on December 17, 2021. Peter Crivaro is self-represented and asked that the appeal proceed without a hearing. Assistant Polk County Attorney Mark Taylor represents the Board of Review.

Peter and Bridget Crivaro own a residential property located at 2801 Emma Avenue, Des Moines, Iowa. Its January 1, 2021, assessment was set at $423,000, allocated as $87,100 in land value and $335,900 in building value. (Exs. A & B).

Crivaro petitioned the Board of Review claiming the property's assessment was not equitable as compared with the assessments of other like property in the taxing district. Iowa Code § 441.37(1)(a)(1)(a) (2021). (Ex. C.) The Board of Review denied the petition.

Crivaro then appealed to PAAB reasserting his equity claim.

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).

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 property 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." *Id*.

Findings of Fact

The subject property is a one-story home built in 2007. It has 1967 square feet of gross living area, a walk-out basement with 1600 square feet of living-quarter quality finish, two fireplaces, three-and-a-half bathrooms, a patio, a deck, an open porch, and a three-car attached garage. The improvements are listed in normal condition with a 2+05 grade (high quality). The site is 0.471 acres. (Ex. A).

Crivaro questions his assessed value when compared to four other one-story homes located on or near his street, which are summarized in the following table. (Appeal; Exs. A, D-G).

	Year Built	Grade	Gross Living Area (SF)	Basement Finish (SF & Quality)	Assessed Land Value	Total Assessed Value
Subject	2007	2+05	1967	1600 LQ	$87,100	$445,210
1 - 2802 Emma Ave	2006	2+00	1884	1590 LQ	$77,400	$396,100
2 - 2809 Emma Ave	2004	2-10	1872	1500 Avg Plus	$81,200	$340,900
3 - 2810 Emma Ave	2005	2+10	1845	1454 LQ	$75,700	$357,700
4 - 4500 SW 29th St	2006	2+05	1865	1719 LQ	$67,100	$396,600

None of the comparables have recently sold.

All of the properties are one-story homes built within a few years of each other; and all have generally similar quality (grade). Although all of the comparables are slightly smaller, they are within 122 square feet in gross living area. A measurable difference is the subject property has a walk-out basement, whereas none of the comparable properties have this feature. (Exs. A, D-H).

The subject and Comparables 1, 2, and 3 all have similar site sizes ranging from 0.401 to 0.511 acres. (Exs. A, D-F). Because the subject property has a walk-out site, it is adjusted upwards 10%, resulting in its assessed site value by roughly $6,000 to $11,000 compared to Comparables 1, 2, and 3. Comparable 4's site is smaller at 0.266 acres and also does not have a walk-out feature. (Ex. G). This results in a $20,000 difference between it and the subject site. The walk-out feature also adds $9,234 to the replacement cost new of the subject's improvements.

The record does not include cost sheets for all of the comparable properties, which may aid in explaining other differences that would result in differences between the subject and the comparables. For instance, the subject has 456 square-feet of brick veneer that adds $8,418 to its replacement cost new. Pictures of the comparable properties show these homes do not appear to have the same amount of impervious veneer. (Exs. D-G). We also note differences in numbers of bathrooms, plumbing fixtures, and fireplaces between the subject and comparables, which helps explain some of the variance in assessed values.

Analysis & Conclusions of Law

Crivaro claims that the subject property's assessment is not equitable as compared with the assessments of other like property in the taxing district. § 441.37(1)(a)(1)(a).

Under section 441.37(1)(a)(1)(a), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district." 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).

Alternatively, 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 (2020) and current year assessments (2021) of the subject property and comparable properties.

Crivaro submitted four properties and compared the assessed values of these improvements to his own. There is no evidence suggesting any of these properties have recently sold and there is no evidence of the subject's fair market value consistent with Iowa Code section 441.21. Without this evidence, an assessment-to-sale-price ratio analysis cannot be developed, and the *Maxwell* equity analysis cannot be completed. Moreover, simply comparing assessments is not a recognized method for establishing inequity. Crivaro has not demonstrated the assessor is using a non-uniform assessment methodology. Rather, the differences in assessed values seems to be the result of differences in attributes between the subject and comparables. Based on the foregoing, Crivaro has failed to show inequity in the assessment under either *Eagle Food Centers* or *Maxwell*.

Viewing the record as a whole, we find Crivaro has failed to prove his claim.

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.

Karen Oberman, Board Member

Dennis Loll, Board Member

Elizabeth Goodman, Board Member

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