

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

PAAB Docket No. 2021-077-10086R

Parcel No. 181/00628-928-609

Ronald Dougherty,

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 3, 2021. Ronald Dougherty is self-represented and asked that the appeal proceed without a hearing. Assistant Polk County Attorney Mark Taylor represents the Board of Review.

Ronald and Diane Dougherty own a residential property located at 3028 SW 21st Court, Ankeny, Iowa. Its January 1, 2021, assessment was set at \$450,700, allocated as \$129,900 in land value and \$320,800 in building value. (Exs. A & B).

Dougherty 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.

Dougherty then appealed to PAAB reasserting his 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).

Findings of Fact

The subject property is a one-story home built in 2005. It has 1989 square feet of gross living area, three bathrooms, a walk-out basement with 1016 square feet of living-quarter quality finish, two fireplaces, a patio, a deck, two fireplaces, and a three-car attached garage. The improvements are listed in normal condition with a 2-10 grade (high quality). The improvements have 7% physical depreciation applied to the assessed value. (Ex. A).

Dougherty asserts his property is similar to his neighbor's home, located at 3024 SW 21st Court, which was built by the same builder and only one year older than his home. (Appeal & Ex. D). Dougherty compares his total living area of 3005 square feet to the comparable's total living area of 3108 square feet. Dougherty added the above-grade finish to the basement finish of each property to arrive at his total living area calculation. We note it is not common appraisal practice to compare total living areas due to potential differences in the amount and quality of lower level finish, which may skew the results. Dougherty also states the comparable property has a larger deck with an attached gazebo, which his property does not feature. Despite these differences, Dougherty notes his building value is \$320,800 compared to \$286,900 for 3024 SW 21st Court; a difference of \$33,900, or 12%.

Neither Dougherty's property or the comparable have recently sold. (Exs. A & E).

The following table summarizes the elements of comparison noted by Dougherty and the associated costs of those components. (Exs. A & E).

Subject Property	Size (SF)	Cost/SF	Total
Main Living Area	1989	\$103.87	\$206,597
Basement Finish	1016	\$47.58	\$48,341
		Total RCN ¹	\$254,939
3024 SW 21st Ct	Size (SF)	Cost/SF	Total
Main Living Area	1671	\$111.29	\$185,966
Basement Finish	1437	\$47.58	\$68,372
		Total RCN	\$254,338

The comparable has a smaller main living area than the subject but its cost per square foot is higher following the law of decreasing returns², which suggests that all else being equal, smaller properties would tend to have a higher price per square foot.

The RCN of the subject's deck and the comparable's deck has the same cost new of \$29.28 per square foot. As Dougherty noted, the comparable does have a larger deck and the cost new for this feature is \$9,370; its gazebo contributes another \$4,627 to its RCN. (Ex. E). In comparison, Dougherty's deck has a cost new of \$5,270. (Ex. A).

Notwithstanding the foregoing concerns Dougherty raised, there are other differences between the two properties that contribute to differences in building and total assessments. (Exs. A & E). Although their site values were determined using the same formula, the subject's site is substantially larger and it accordingly has greater assessed land value. There are also differences in number of fireplaces, extra plumbing fixtures, and other items that contribute to the variance. We note the comparable has a similar 2-10 grade like the subject. Further, the subject property, which is one-year newer than the comparable has 7% physical depreciation applied to its assessment. Whereas, the comparable has 8% physical depreciation applied to its assessment.

Another difference between the two assessments lies in additional obsolescence applied to the comparable property that was not applied to the subject property. The Board of Review explains that in 2012 it applied a 7% (0.93) "market adjustment" to the

¹ RCN is the replacement cost new of the identified component.

² See THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 26-27 (15th ed. 2020).

reconciled RCN of the comparable property. (Ex. F). In 2015 the market adjustment was reviewed and again applied by the Board of Review because of the owner's assertion there are erosion problems impacting the parcel. The Board of Review submitted an aerial photograph, we presume to show the erosion issues affecting the comparable. However, we are unable to view any erosion issues on the photograph. The Board of Review reports that for the 2022 assessment, the Assessor's Office will review the market factor applied to this property.

Analysis & Conclusions of Law

Dougherty 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." The plain language of section 441.37(1)(a)(1)(a) indicates that more than one comparable property is necessary to demonstrate the subject property is inequitably assessed. "It is well established that the showing of only one other comparable property in the area or district is not sufficient to afford relief, the rule being that an assessment is not discriminatory unless it stands out above the general level." *Maxwell v. Shivers*, 133 N.W.2d 709,712 (Iowa 1965). See *Crary v. Bd. of Review of Boone*, 286 N.W. 428 (Iowa 1939). "Were the rule otherwise an isolated instance of underassessment might result in a general reduction for all similar properties." *Crary*, 286 N.W. at 430. See *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019).

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

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

Dougherty submitted only one comparable property. The subject and comparable have not recently sold and there is no other evidence of their actual value consistent with Iowa Code section 441.21. As a result, the *Maxwell* ratios cannot be calculated. Further, as already stated, to succeed in an equity claim, more than one comparable property must be analyzed. For these reasons, his claim must fail.

Another method of demonstrating inequity is to 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). Dougherty offered a neighboring property that is substantially similar to the subject property, but has a lower building value. For the most part, the properties are valued using consistent methodology. As noted above, however, the primary cause of this building value differential is the Board of Review's 2012 application of a market adjustment to the comparable. There is no support in this record for the comparable's market adjustment, and we can understand why Dougherty would have a concern about the equity of their assessments. Confined as we are to the statutory language and case law requiring more than one equity comparable, we are nonetheless required to conclude that Dougherty's equity claim fails as a matter of law.

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

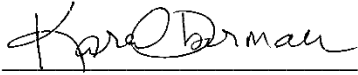
Order

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.

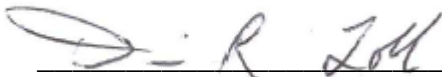
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

Copies to:

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Polk County Board of Review by eFile