

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Katherine G. Heath,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-07-0825
Parcel No. 8914-12-361-006

On May 20, 2010, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Katherine G. Heath, requested a hearing and submitted evidence in support of her petition. She is self-represented. The Board of Review designated Assistant County Attorney David J. Mason as its legal representative. The Board of Review submitted its certified protest record. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Katherine G. Heath, owner of property located at 603 W. 11th Street, Cedar Falls, Iowa, appeals from the Black Hawk County Board of Review decision reassessing her property. According to the property record card, the subject property was built in 1956 and consists of a one and a half-story frame dwelling having 1026 square feet of living area on the main floor, a 220 square foot first floor addition and a full unfinished basement. At hearing, the assessor testified there are 938 square feet of additional living area on the upper level. The property has an attached 352 square-foot garage plus a 330 square foot addition. The exterior of the dwelling and garage are brick. The property is also improved by an open porch and wood deck. The dwelling is situated on a 0.2 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$199,610, representing \$18,930 in land value and \$180,680 in dwelling value.

Heath protested to the Board of Review on the grounds that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b); and that there is an error in the assessment under section 441.37(1)(d). The error claimed is the assessed value exceeds the actual value by \$19,610. The Board of Review denied the protest, stating there was, “insufficient evidence presented to prove assessment is excessive.”

Heath then appealed to this Board. She marked the ground of equity on the petition form but in the relief sought section stated her request for a reduction in dwelling value to her purchase price, essentially claiming it was over-assessed. She claimed \$197,300; allocated \$17,300 to land value and \$180,000 in dwelling value was the actual value and a fair assessment of the property. She purchased the property June 18, 2007, for \$180,000 in a transaction designated a normal arms-length sale.

Heath submitted tables comparing her land assessment to other similarly sized 0.2 acre lots. All nine comparably-sized lots had assessed values of \$17,300, while the subject lot is assessed at \$18,930. She testified that she reviewed the assessments of other 0.2 acre lots and corner lots in Cedar Falls. Heath determined all of them were valued at approximately \$17,300,¹ while her lot was assessed at \$18,930.

Heath testified the two fireplaces in her dwelling were unsafe and non-operational, although they have not been capped off. In her opinion, no value should be attributed to them. She also submitted charts showing sales of dwellings she considered comparable to her dwelling. Although these may have similar bedroom and bath count, the analysis is flawed in such that no meaningful comparison of the properties can be made. The sale dates are not current, ranging from 1991 to 2005;

¹ The 621 Tremont Street has a land assessment of \$17,360.

two of the properties were built in the late 1800s, and the other was built in 1929; and there is no standard unit of value, such as price per square foot.

The Board of Review did not submit any evidence in addition to the certified record. Assessor Tami McFarland testified on behalf of the Board of Review she had examined the Heath appeal and recalculated the land value. She determined the assessed value of the land should be reduced to \$17,740 due to the wide, 132 foot frontage on the road and the shallow, 66 foot depth of Heath's corner lot. McFarland distinguished Heath's lot from a neighboring, adjacent lot at 1322 Walnut, which was valued less because of its 68 foot frontage on Walnut and 132 feet lot depth.

McFarland testified she does not consider the dwellings identified by Heath to be comparable because of different ages, plumbing, garage count and type, and building style. We agree the differing ages, construction styles and varying features eliminate reasonable comparison of the properties. Additionally, the sales data relies mainly on sales which are dated and obsolete, some approaching twenty years old.

McFarland also indicated that although the subject property had a total of 1964 square feet, Heath's exhibits only listed the 1026 square feet on the first floor, without including the 938 square feet on the upper level. The dwellings Heath offered as comparable have square footage listed ranging from 735 square feet to 1050 square feet, making the analysis unreliable. McFarland reported if the assessor's office was notified and could verify Heath's two fireplaces were capped-off, the value attributed to them would be removed from the assessed value of the dwelling. She estimated this would result in an assessment reduction of almost \$8,000.

While Heath did not show her dwelling was over-assessed, the evidence supports Heath's contention the land is over-assessed. The land value in the assessment should be reduced to reflect the adjustment for excessive front foot recommended by the assessor. The fair market value of the subject

property is \$198,420, representing \$17,740 in land value and \$180,680 in dwelling value for the January 1, 2009 assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board 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). The Appeal Board 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). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board 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 that the assessed value is correct. § 441.37A(3)(a).

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. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

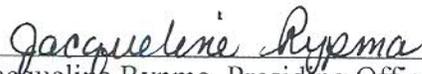
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

(Iowa 1995). In this case, the assessor's testimony supported Heath's assertion her property is over-assessed, specifically the land valuation.

We, therefore, modify Heath's property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$198,420, representing \$17,740 in land value and \$180,680 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Black Hawk County Board of Review is modified to \$198,420, representing \$17,740 in land value and \$180,680 in dwelling value.

Dated this 3 day of JUNE 2010.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6.3</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	