

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**IN THE MATTER OF**  
**Wesley Gade,**  
    Petitioner-Appellant,  
v.  
**Bremer County Board of Review,**  
Respondent-Appellee.

**ORDER**  
  
**Docket No. 09-09-0035**  
**Parcel No. 09-03-233-006**

On August 24, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1)(a-b) et al. Petitioner-Appellant, Wesley Gade, requested this appeal be considered without hearing and submitted evidence in support of his petition. He is self-represented. The Bremer County Board of Review designated County Attorney Kasey E. Wadding as its legal representative. It submitted documentary evidence prepared by Assessor Jean A. Keller in support of its decision. The Appeal Board now having examined the entire record and being fully advised, finds:

***Findings of Fact***

Wesley Gade, owner of property located at 419 5th Street, NW, Waverly, Iowa, appeals from the Bremer County Board of Review decision reassessing his property. According to the property record card, the subject property is a 975 square-foot, one-story frame dwelling built in 1959 on 0.182 acres with a 14 foot by 24 foot attached garage and 14 foot by 24 foot detached garage. The dwelling has a full unfinished basement, a patio, and a screen enclosure. The property has a grade classification of 4-5 and is in normal condition. The dwelling has a 30% physical depreciation and 5% obsolescence discount. A January 1, 2009, comment on the record card states that the dwelling was flooded, which resulted in the basement finish being removed. It also noted replacement of the furnace, water heater,

air conditioner, and electrical box as of the assessment date. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$94,290, representing \$16,050 in land value and \$78,240 in dwelling value.

Gade protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). He claimed that the property was over-assessed by \$34,290 and that \$60,000 was its actual value and fair assessment. Gade claimed the subject property should be assessed at \$60,000, his December 2008 purchase price. The Board of Review upheld the petition and reduced the property value. The Board of Review minutes indicate that the grade was changed from 4 to 4-5 and obsolescence was changed to 5% resulting in a reduction of the total value to \$87,150. Gade then appealed to this Board on the same ground.

Gade purchased the property on December 12, 2008, for \$60,000 in what the certified record indicates was a normal arms-length transaction. He indicated that the property was heavily affected by flood in June 2008 and is in the FEMA flood zone.

Gade submitted an appraisal completed by Jim Herink of Rally Appraisal, LLC, Cedar Falls, Iowa. Herink valued the property at \$70,000 one month prior to the January 1, 2009, assessment date using the market approach to value. According to the report, only the basement of the subject property was affected by the flood. He rated the overall condition of the subject property as average, noting adequate maintenance, major replacements, and updating of the dwelling. Herink used four comparable 2008 sales ranging from \$60,000 to \$79,000, three of which were built in the 1950s like the subject property. He made adjustments for site, condition, age, gross living area, basement finish, garages, and porches.

Gade's purchase price of \$60,000 will be considered in arriving at the subject property's assessment value. It was an arms-length transaction, the sale occurred only weeks before the

assessment date, and it is an indication of fair market value. Additionally, the Herink appraisal valuing the subject property at \$70,000 supports the claim the subject property assessment is excessive.

Reviewing all the evidence, we are persuaded that the purchase information and appraisal report support a finding that the property was assessed for more than authorized by law as of January 1, 2009.

### *Conclusion of Law*

The Appeal Board applied the following law in this appeal.

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 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).

Gade asserts the sale price should be the assessed value. In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined “[i]t is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the

sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.” Accordingly, we have considered the sale price the Gades paid in our decision.

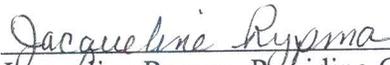
Viewing the evidence as a whole, it is our conclusion that Gade presented persuasive evidence sufficient to support the claim that his property is assessed for more than authorized by law. We conclude the sufficient evidence was presented of the fair market value of the subject property.

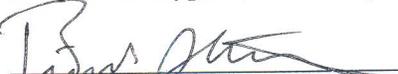
We, therefore, modify the Gade property assessment. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$70,000, representing \$16,050 in land value and \$53,950 in dwelling value.

IT IS ORDERED that the January 1, 2009, assessment as determined by the Bremer County Board of Review is modified to \$70,000, representing \$16,050 in land value and \$53,950 in dwelling value.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Bremer County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 9 day of Sept. 2009.

  
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Jacqueline Rypma, Presiding Officer

  
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Richard Stradley, Board Member

  
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Karen Oberman, 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>9-9</u> , 200 <u>9</u>	
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	<u><i>[Handwritten Signature]</i></u>