

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Charles J. & Kathryn M. Butterfield

Petitioners-Appellants,

v.

Buchanan County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-10-0021
Parcel No. 06-35-102-002**

On August 19, 2009 the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.47A(2) and Iowa Administrative Code rules 701-71.21(1) et al. A written consideration was requested by the Appellants, Charles & Kathryn Butterfield. They are self represented. The Buchanan County Board of Review designated County Attorney, Allan Vanderhart, as legal representation. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

The Butterfields protested to the Buchanan County Board of Review regarding their property located at 900 Rebecca Court, NE, Independence, Iowa. The 2009 residential assessment is allocated as follows: \$29,838 in land value and \$255,785 in improvement value for a total assessment of \$285,623. The Butterfields claim was based on a single ground: that the assessment is not equitable under Iowa Code section 441.37(1)(a). The Board of Review left the 2009 value unchanged citing insufficient evidence to show assessment was inequitable.

The Butterfields then appealed to this Board. They assert that their land value is unduly high compared to neighboring sites. While they do not dispute the value assigned to the improvements, the

Butterfields effectively are disputing the total value as they believe the fair assessment should be \$273,341.

The Butterfields contend that their lot value is over-assessed and provide a chart outlining six properties in the same development. The chart outlines the assessed value "per acre;" however, we consider this to be typographical error, as the reference throughout the protest, and the calculations refer to the assessed value per square foot. An overview of the subdivision plat was also included in the certified record, which shows the individual sites and their current assessed valuations.

The Butterfield site is 0.602 acres or 26,203 square feet, corner site. The assessed valuation is \$29,838 or \$1.14 per square foot. The Butterfield's contend their site should be assessed at \$0.67 per square foot (\$17,556 rounded) based upon the following analysis.

The six comparable sites presented by the Butterfield's have an assessed value per square foot range of \$0.47 - \$0.82 with a \$0.67 average. The comparable sites range in size from 1.06 acres to 2.014 acres. No sites of similar size (less than one acre) were presented. This is concerning, as larger sites can demonstrate a lower value per square foot if this is not the appropriate unit of comparison. If a comparable is considerably larger than the subject property, the law of diminishing returns may influence the land or site value, resulting in a lower price per unit of comparison than a smaller property in the same location.

On August 4, 2009, this Appeal Board received a letter from Brad Harms, the Buchanan County Assessor, on behalf of the Board of Review providing additional information to consider. Mr. Harms points out that the subject site was purchased in September 2003 for \$28,900. Additionally, the sites directly to the north and south of the subject site, which offer the most similar size (0.602 and 0.616 acres) are assessed at \$29,826 and \$30,538 respectively. Based upon the aggregate data, Mr. Harms does not consider the value per square foot as a reasonable unit of comparison. The motion to

deny the protest in the Board of Review minutes indicate that Mr. Harms used the front foot method to value land in the area.

There is no breakdown provided to this Board of the frontage of the sites used for comparison by the Butterfield's, nor was a breakdown provided on the plat map which was included in the certified record. Taking the plat map at face value, with the assessed values hand-written, the lot values (regardless of size, shape or location within the subdivision) range from \$29,826 to \$40,892. The subject site is at the low end of this range and is very comparable with the two most proximate and similar sized sites.

The Butterfield's assert their assessment is for more than market value based upon a square foot comparison analysis. We find the analysis to be incomplete as it does not include the most proximate and similar sized sites and does not clearly demonstrate that the proper unit of comparison was considered. This Board recognizes that the per-square-foot method is a recognized unit of comparison, but was not used by the assessor in this situation, and has not been persuasively shown to be the correct unit of comparison.

Conclusions 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).

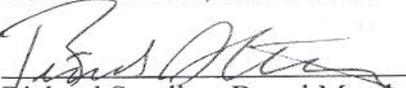
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). Butterfield's purchased the subject site in September of 2003 for \$28,900. The total assessed value of the property for January 1, 2009, was \$285,623 with the land allocation being \$29,838. In this case, it does not appear the assessor valued the land on a per square foot basis, or using different methods for neighboring parcels, and therefore, the Butterfield's comparisons do not support a claim of inequity.

THE APPEAL BOARD ORDERS the assessment of the Butterfield's property located at 900 Rebecca Court, NE, Independence, of \$285,623 as of January 1, 2009, set by the Buchanan County Board of Review, is affirmed.

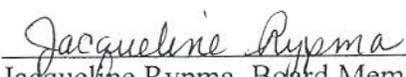
Dated this 18 day of April, 2009



Karen Oberman, Board Chair



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

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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>9-18</u> , 200 <u>7</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>John C. Butterfield</i></u>

