

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Robert & Diane Louis,**

Petitioners-Appellants,

v.

**City of Davenport Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 09-103-1141**

**Parcel No. N1701-030**

On May 12, 2010, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants, Robert Louis and Diane Louis, are self-represented and submitted evidence in support of their petition. The City of Davenport Board of Review designated City Attorney Tom Warner as its legal representative. Both parties participated by telephone. The Appeal Board having reviewed the record, heard the testimony and being fully advised, finds:

*Findings of Fact*

Robert and Diane Louis are the owners of a residentially classified, single-family residence located at 2933 E. 44th Court, Davenport, Iowa. The property is a two-story home, built in 1993, and has 4064 square feet of above-grade living area with an 1812 square-foot, walkout basement. There is 1100 square feet of "living quarters" finish in the basement, a four-car attached garage, and several exterior amenities such as decks and a patio.

The Louises protested to the City of Davenport Board of Review regarding the 2009 assessment allocated as follows: \$60,790 in land value and \$342,060 in improvement value for a total assessment of \$402,850.

The Louises' claim was based on a single ground: that the assessment is not equitable as compared with assessments of other like properties under Iowa Code section 441.37(1)(a). The Board of Review agreed, in part, and reduced the value of the subject property to \$385,740 as of January 1, 2009. The Board's reason for reduction is based upon the property being assessed for more than market value.

The Louises then appealed to this Board again asserting their property is inequitably assessed. But they also stated a belief that the correct value of the subject property is \$340,900; essentially asserting a market value claim under section 441.37(1)(b). While this was the reason for reduction by the Board of Review, all of the evidence and testimony submitted by both parties is in regards to equity. Therefore, equity is the only ground that will be considered by this Board.

In their petition to the Board of Review, the Louises supplied four properties they considered equity comparables. The petition labeled them as properties A thru D and provided the parcel number, address, and 2009 assessed value. Robert Louis testified regarding his "fact sheet" (exhibit 2). He stated this exhibit was not "new" and was presented to the Board of Review during his May 2009 hearing. This exhibit essentially provides a timeline of events, a spreadsheet breaking down the subject property and previously mentioned four properties offered as equity comparables, as well as a fifth property not included on the original petition. While Louis asserts this was presented to the Board of Review, we note it was not included in the certified record.

In this spreadsheet, Louis takes the properties he considers equity comparables and breaks the total value down to improvement and land value. He then presents the selected properties assessed value per square foot of the dwelling and the assessed value per square foot of the land in comparison to the subject property. Using the five properties, Louis concludes a range of \$69.54 to \$80.24 assessed value per square foot for the dwelling, compared to his assessed dwelling value per square foot of \$87.26. For the land analysis, Louis only considers two of the five properties presented, and

indicates a range of \$75,903 to \$77,908 assessed value per acre, compared to his assessed value per acre of \$93,523. Therefore asserting the value attributed to his dwelling and the value attributed to his land are not equitably assessed to other similar properties. Louis also offered a map identifying other sites in comparison to his site in an effort to show the land size differences but it was not to scale.

In his comparison of the dwelling, Louis did not adjust for or take into consideration any differences between his property and the properties he presents as comparable. His property has a four-car attached garage, whereas all of the comparables appear to have only a three-car attached garage. Additionally, his property features a walk-out lower level, and it is unclear if any of the other properties have this feature. Based upon property record printouts, all of the properties including the subject appear to have some basement finish, however the quantity and quality of this finish does not appear to be similar based upon testimony from the Board of Review. We note that while the Board of Review included a property record printout for the subject, it did not provide a complete property record card as required by the certification process. Iowa Admin. Code r. 701-71.21(11).

Louis compares his land to only two other properties. And he bases this comparison on a per-acre unit value. While a per-acre unit value may apply in some situations, these assessments were determined on a front-foot unit value, as testified to by Nick Van Camp, Deputy Assessor for the City of Davenport. By not applying similar units of comparison to the method used to develop the assessed values skews the results. Louis does not compare the total assessed value of his property to any of the total assessed values of his comparable properties even though he argues his total assessment is too high.

Van Camp testified regarding the method of valuation for land. He stated land values for this area were based upon \$400 per front-foot, and then adjusted with a 150 foot depth chart if necessary. Additionally, sites with "excessive" front-foot were similarly adjusted. Van Camp did not present this Board with a definition of typical frontage or what would be considered as excessive. However, he

noted the two properties submitted by Louis for comparison of land value had excessive frontage. These sites were adjusted for excess frontage but were not adjusted for depth.

The Board of Review did not offer any new exhibits to this Board, and relied solely upon the certified record and testimony from Van Camp. Van Camp only considered the original four properties which were indicated by the Louises on the Board of Review petition. He did not offer any testimony in regarding the fifth property submitted by Louis as a comparable to this Board.

Of the original four properties considered by Louis as equity comparables, Van Camp offered a total assessed value per-square-foot analysis. The subject's January 1, 2009, assessed value per square foot is \$94.92. Van Camp reports the four properties on the petition have total assessed value per square foot as follows: \$87.49, \$92.99, \$95.02 and \$96.16. Van Camp believes the lower end of this range is an outlier and was a property that had disrepair and deferred maintenance, although Louis disagrees with this belief.

Van Camp asserts the subject's total assessed value per square foot is reasonably bracketed by these four properties. And, suggests that when removing what he considers an outlier, the mean and median of the three properties is \$94.22 and \$94.00 respectively; supporting the position the subject is equitably assessed. No adjustments were made to the comparables by Van Camp, however it is noted the comparables were slightly inferior with differences which may include total size of the property, quality and quantity of basement finish, and other amenities such as garage count and walk-out basement features.

For additional testimony in support of the Board of Review's position, Van Camp referenced the sale of a similar property located two houses from the subject property, which sold in May 2009 for \$395,000, or \$103.44 per square-foot. We note this sale occurred after the January 1, 2009 assessment, and give it less weight.

Mr. Louis offered significant thought in support of his position, however when looking solely at individual values, he did not take into consideration or adjust for potential value impacting factors such as walkout basements, additional basement finish, garage count, and other amenities. Additionally, when considering only the land value component, he applied a different unit of comparison than was used in the actual assessment process, which will skew the results.

While the Board of Review could have offered a more compelling presentation with the use of even a brief summary or spreadsheet, it did nonetheless orally demonstrate that compared to the very properties Louis considered as equity comparables, the subject is assessed equitably.

We find insufficient evidence has been provided to demonstrate the subject is not equitably assessed as compared with assessments of other like property.

### *Conclusions of Law*

The Appeal Board applied the following law.

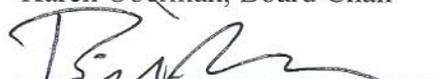
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all 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).

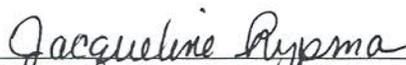
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The Louises do not demonstrate the properties they consider as equity comparables are assessed using different methods than what was used to assess his property. Additionally, the Louises failed to demonstrate their property is assessed proportionately higher than other properties using criteria set forth in *Maxwell*. Finally, we cannot rely on the comparable properties submitted by the Louises to determine whether their assessment was inequitable. Ultimately, the Louises were arguing that their assessment as a whole was incorrect. They then chose dwelling assessments of some properties and land assessment of other properties to support this claim. In *Riso v. Pottawattamie County Bd. of Review*, 362 N.W.2d 513, (Iowa 1985), the Supreme Court was faced with a similar circumstance and stated, “[f] 2d 86, 87 (Iowa 1977) (“The ultimate question in tax valuation cases is the exchange value of the property as a unit.”)

THE APPEAL BOARD ORDERS the assessment of the Louises property located at 2933 E. 44th Court, Davenport, Iowa, of \$385,740, as of January 1, 2009, set by the City of Davenport Board of Review, is affirmed.

Dated this 9 day of June 2010

  
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Karen Oberman, Board Chair

  
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Richard Stradley, Board Member

  
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Jacqueline Rypma, Board Member

Cc:

Robert and Diane Louis  
2933 E. 44th Ct.  
Davenport, Iowa 52807  
APPELLANTS

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ATTORNEY FOR APPELLEE

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>6-9</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	<u><i>John Coburn</i></u>