

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David & Michelle Peters,
Petitioner-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-30-0104
Parcel No. 07-29-158-009

On October 21, 2009, the above-captioned appeal came on for a 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-Appellants, David and Michelle Peters, requested a hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

David and Michelle Peters, owners of property located at 43 Bascom Street, Arnolds Park, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 969 square feet of above-grade living area, a full unfinished basement, and detached 24 foot by 24 foot garage. The improvements were built in 1930, but have an estimated age of 1978 and a grade classification of 4+10. The dwelling is situated on a 60 foot by 340 foot lakeshore lot. The property has 72 effective front feet of shoreline on Lake Minnewashta. The real estate was classified as

residential on the initial assessment of January 1, 2009, and valued at \$392,500, representing \$304,600 in land value and \$87,900 in improvement value.

The Peters protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). They claimed that \$302,500; allocated \$252,500 to land and \$50,000 in the dwelling was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part, and reduced the assessment to \$389,800, allocating \$304,600 to land and \$85,200 to the dwelling.

The Peters then appealed to this Board. They re-asserted their claims of inequity and over-assessment. The Peters assert that their property is assessed higher per square foot of land value and dwelling value than community average values. They contend that a survey of all lakefront property assessments prove this. Peters testified that the corporation paid \$261,000 for the property in October 2003, then cleaned, repainted, remodeled, and landscaped the property. The updating included adding a shower and installing new floor coverings. The Peters report that their property value has increased excessively, by almost 30% in one year. The Peters purchased the property in 2006 for \$300,000 from a corporation in which Mr. Peters was a member holding a one-third interest. He contends that this was an arms length transaction and represented the fair market value at the time of purchase. According to the Department of Revenue, the fact that Peters purchased a property in which he already held an ownership interest designates this purchase as an abnormal sales transaction.

Mr. Peters testified that he did not consider the depth of his lakefront lot to be valuable, contending that only the lakefront footage had value. In his exhibit he focused on the lakefront footage and ignored the depth of the lots. For this reason, his comparison of value per waterfront foot is inaccurate. Since his 340 foot lot depth by far exceeded the average 150 foot depth of surrounding

lots, he devised a method of adding the land values of two adjacent lots together. He added the value of a lakefront to the value of the adjacent lot which faced the road, to estimate the value of a deeper lot.

Peters also considered the actual age of their dwelling when comparing homes by age disregarding the effective age of his property after its 2003 remodeling. When a dwelling has had substantial remodeling, the amount of depreciation allowed must be adjusted to reflect such improvements. This was accomplished here by lessening the actual age of the Peters' property. For this reason, we do not rely on his ranking of dwelling value assessment per square foot using only the actual ages. His calculations of value per square foot of living area are not restricted to properties which are truly comparable to the Peters' property, making the data on this survey unreliable.

Assessor Patricia Dodds attributed a front foot price to land values that she based on the results of a sales report. She then used the *Real Property Appraisal Manual* prepared by the Department of Revenue to value dwellings by the cost approach. Ms. Dodds reported that she developed three lake front unit prices; \$4000, \$4500, and \$5000 per front foot. The unit price was established for different portions of lakefront depending on the desirability of the location. Dodds identified four basic lakefront areas and the corresponding unit price of each area. The Peters' area is assessed at \$4,500 per front foot.

Dodds testified that the most common lakefront lot has a 150 foot depth, as compared to the 340 foot dept of the Peters' lot. She disagrees with Peters belief that there is no value in a deeper lot; however, she uses a depth factor of 1.2 for this property because of the diminishing return effect of increased depth. Essentially the deeper the lot the less valuable extra depth footage becomes as compared to the initial measurement. Dodds noted that if subdivided, the back lot could have lake access through Peters' property. She testified that lake access is a very important factor and adds value in this lake community. In Dodds' opinion, the road front portion of the Peters' lot is worth about \$40,000. Additionally, she does not endorse the atypical method used by Peters of adding the values of

two adjacent together to estimate the value of a deep lot. Finally, Dodds reported that the Peters' dwelling was treated as a remodeled home which reflected an effective age of 1978, despite the actual age of 1930.

The Board of Review also presented evidence of recent sales showing that sale prices were higher than assessed values. Peters presented a list of the most recent lakefront sales as well pointing out that sales prices were higher than the assessed values. Peters interprets this as an indication of declining property values in the county, where in actuality, it refutes his argument of over-assessment. In essence because assessed value should be 100% of market value, the fact that the sales are higher than the assessed value indicates under-assessment.

Reviewing all the evidence, we find the evidence is insufficient to prove that the Peters' January 1, 2009, assessment is inequitable or in excess of fair market value.

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).

Peters assert the 2006 purchase price should be the 2009 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." Since the Peters' sale was considered an abnormal transaction, we do not consider it to be indicative of the property's fair market value and do not rely on this evidence to show over-assessment.

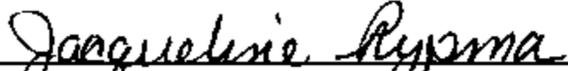
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Peters failed to present persuasive evidence sufficient to

support the claim that the assessment was not equitable as compared with assessments of other like property in the taxing district.

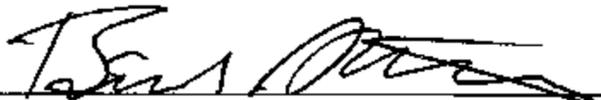
We, therefore, affirm the Peters' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$389,800, representing, \$304,600 in land value and \$85,200 in dwelling value is affirmed. testified

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 5 day of November 2009.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member
Not Present at Hearing/Reviewed Record

Copies to:
David & Michelle Peters
43 Bascom Street
Arnolds Park, IA 51331
APPELLANTS

Lonnie Saunders
Assistant Dickinson County Attorney
P.O. Box E
Spirit Lake, IA 51360
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>11-5</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
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