

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Margaret A. Wilcox,**

Petitioner-Appellant,

v.

**Dickinson County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 09-30-0763  
Parcel No. 03-28-352-002**

On April 19, 2010, the above-captioned appeal came before the Iowa Property Assessment Appeal Board. A written consideration was requested by the Appellant, Margaret A. Wilcox, who was self-represented. The written consideration was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Dickinson County Board of Review designated Assistant County Attorney, Lonnie Saunders, as legal representation. Both parties submitted evidence in support of their position. The Appeal Board having reviewed the entire record and being fully advised, finds:

*Findings of Fact*

Margaret A. Wilcox, protested to the Dickinson County Board of Review in regards to her property located at 13930 240th Avenue, Orleans, Iowa. The 2009 assessment is \$683,700, allocated as follows: \$413,500 in land value and \$270,200 in improvement value. This assessment is a slight decrease from the 2008 assessment which was \$687,900, after equalization. According to the property records card, the subject property is a two-story home built in 2002 with 2132 square feet of above-grade living area, a full basement with 1066 square feet and no finish, an attached two-car garage, a

342 square-foot enclosed porch, and an open front porch. The improvements are situated on a 13,175 square-foot site with approximately 70 feet of lake-front.

To the Board of Review, Wilcox petitioned on two parcels, 03-28-352-002 (improved and described previously) as well as, 03-39-477-013 which abuts the first parcel and has 15,792 square feet of site area and a two-car detached garage. The latter parcel does not have any lake frontage, and provides street access to the parcel which is the subject of the claim before this Appeal Board. Wilcox claimed the following grounds in her petition: 1) the assessment was not equitable under Iowa Code section 441.37(1)(a); 2) there is an error in the assessment under section 441.37(1)(d), and; 3) there has been a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). The Board of Review denied the petition citing “insufficient evidence was presented to prove assessment is excessive.”

To this Board, Wilcox only appealed parcel 03-28-352-002 which is improved with a residence previously described. Wilcox reasserts the original claims, and also indicates the correct value should be \$613,227 thus making a claim the property is assessed for more than the value authorized by law under section 441.37(1)(b). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review, 2006 WL 1750300 (Iowa Ct. App. 2006)*. Wilcox claimed downward trend to the Board of Review; additionally, we note the Board of Review denied the petition based upon insufficient evidence proving the assessment is excessive. Accordingly, we do not consider the claim of over-assessment as a new claim to this Board, but within the claims it originally petitioned.

Wilcox presented five properties she considered as equity comparables to the Board of Review, and provides the legal description, as well as the total assessed value of each property. On an attached spreadsheet, she reports the year built, owners name, address, building square footage, building assessed value and the assessment per square foot of the improvements. From this analysis, Wilcox

points to an assessment per square foot of improvements ranging from \$74.56 to \$98.01, compared to her assessment per square foot of improvements, \$126.74. Wilcox also provided the property record card for these five properties. We note a discrepancy between four of the properties building area reported on the spreadsheet versus what is reported on the property record cards provided.

Wilcox asserts, in a letter to the Board of Review, dated May 4, 2009, that the referenced spreadsheet indicates other properties are assessed significantly lower per square foot. However, Wilcox does not consider age of the properties, size or location of the sites, lake-frontage, or quality and condition of the properties submitted as comparable, and the reported size of these properties is incorrect. Therefore, we find the analysis to be incomplete, inconclusive and inaccurate.

Dickinson County Assessor, Patricia Dodds, also provides information about the five properties presented by Wilcox. In an undated letter to this Board, Dodds has several concerns with the use of these properties as equity comparables. This "letter" is described by the assessor's office as a summary of the case, and was included within the certified record. In a letter to this Board, dated May 17, 2010, the assessor's office indicates this was a part of the original exhibits. Because it was included in the certified records, and not attached to the exhibit list, there is some confusion as to when it was generated. It appears this summary was incorrectly included in the certification and was not considered by the Board of Review. We did not receive this letter with the initial exhibit list however it was referred to in a follow-up letter by Wilcox. We were unaware that the letter in the certified record was what Wilcox was referencing. When requested, it was sent to us and we have no reason to believe it wasn't intended to be included in the exhibit list rather than the certified record.

Dodds notes the dwellings range in age built from 1940 to 2007, which would impact the physical depreciation considered, some have basements while others have only crawl spaces, there are varying detached structures (either houses or garages), differences on interior amenities such as fireplaces, and lastly differences in grade multipliers. Dodds asserts this last difference is significant

as the petitioners dwelling has much better quality compared to the five submitted properties. As Dodds points out in her summary, “there are many other variables that need to be considered that are in the final value that would affect the base value.” (sic). Dodd lists some variables as age of dwelling; total square feet of living area; if there is basement, no basement, or crawl space; exterior structures; plumbing fixtures; grade multiplier, and; other structures. We agree. We do not believe the analysis presented by Wilcox considers or reflects all value impacting components. Additionally, we note the analysis presented by Wilcox only considers the improvements and does not reflect the total assessment of the property and its equity compared to other like properties.

In the May 2009 letter, Wilcox also references a letter from Eric Hoiien, a Broker with Hoiien Realty. Hoiien’s letter, dated July 14, 2008, identifies the subject property, as well as the adjoining lot which is separately parceled and not a part of this appeal. In this letter, Hoiien reports the location of the subject on the southwest corner of Big Spirit Lake, provides site dimensions, and briefly describes the improvements. He notes the improvements as being a year round “cottage” built in 2002 featuring a full concrete foundation and basement, 1066 square feet of main level finish, 1066 square feet of second level finish, and a 342 square-foot lakeside porch. Additionally, he notes the property features four bedrooms, three bathrooms, an attached double garage and a detached double garage. Hoiien states that after a personal inspection of the property, he estimates “the fair market value to be \$585,000 give or take 5%.” We note this opinion of value encompasses two parcels versus the one parcel considered in this appeal. While Hoiien concludes a final opinion of value, he offers no data or analysis as to how he arrived at this opinion. Hoiien has an impressive list of qualifications within the real estate arena, also listed in his July 2008 letter; however with no explanation or use of market data to show how he arrived at his opinion, we give this evidence limited consideration.

When supplying required documents for the certified record, Wilcox also attached a letter dated June 24, 2008. We assume this was a typographical error, and the correct date of the letter is June 24,

2009. In this letter, Wilcox identifies six additional properties that sold or were pending in Spirit Lake between August 2008 and June 2009. She provides the address, list price and sold price or pending status within this June 2009 letter, and also attached the real estate fact sheets for each of the six properties. However, there was no analysis of the comparability of these properties to the subject to determine market value, nor were the assessed values of these properties supplied to determine equity.

According to the property record card the subject property has 2132 square feet of above grade living area, where as the first three sales presented by Wilcox have 1400 square feet or less of above grade living area. Two of those three have less than 900 square feet of above grade living area. As such, we do consider these to be similar to the subject. Of the remaining three properties presented, two were pending sales which occurred after the January 1, 2009 assessment. The last property, located at 13185 253rd Avenue, sold in August 2008, for \$460,000 according to the supplied real estate fact sheet. Also according to the fact sheet, this property was built in 1983, has 2976 of total square feet of living area, a walk out basement, a two car detached garage, a four season sun room (unknown whether this is included in the total square feet), and approximately 50 feet of shore front.

Dodds addresses all the properties supplied by Wilcox in the June 2009 letter. She notes that only two of the six comparables would be considered "normal" sales by the Department of Revenue for equalization purposes, however does not identify why four of the properties were classified as abnormal transactions. The remaining two properties which are "normal" are located at 12265 253rd Avenue and 13185 253rd Avenue. Dodds notes that 12265 253rd Avenue sold in June 2009, postdating the January 1, 2009 assessment. She also notes 13185 253rd Avenue, sold in August 2008 for \$460,000, however has a 2009 assessment of \$423,500.

The Board of Review offers three properties which it believes are more comparable to the subject dwelling due to having the same grade multiplier as the subject. Property record cards for all three properties were supplied. It is pointed out by the Board of Review that all three properties were

built between 1988 and 2004, and asserts each have similar physical depreciation to the subject. No additional analysis was made by the Board of Review. While the assessed values are available on the property card, the market values have not been established, therefore failing to demonstrate equity other than the fact that the grade multipliers are the same. None of the three properties submitted by the Board of Review have sold recently, therefore they are not claimed to demonstrate or support market value. While the three properties selected by the Board of Review offer similar grade multipliers, no other comparisons were made. We find this information equally incomplete and as inconclusive as Wilcox's.

Lastly, the Board of Review offers a spreadsheet of 2007 and 2008 sales in Big Spirit, as well as a list of 2008 sales in Orleans. Both spreadsheets report the parcel number, property address, sale amount, sale date, 2009 assessed value, and sales ratio. This information is for the entire area, and it is not known if the properties listed are comparable to the subject in terms of style, size, age or other factors. As such, we give no consideration to this information other than county-wide sales ratio data.

Wilcox responded to the Summary provided by the Board of Review, in a letter date August 18, 2009. Wilcox asserts there is an error in the total square footage reported. In the Board's Summary, Dodds states the subjects living area was determined in accordance with the Real Property Appraisal Manual from the Department of Revenue which states that anything over 90% is to be priced as a two-story. Wilcox's main concern is there is no area above a portion of the main level dining area, which measures approximately 6 feet by 13 feet. As Wilcox points out in her August 2009 letter, the "Iowa Code certainly does not allow the Appellee to assess property that does not exist." Based upon the Summary, it appears the Board of Review acknowledges the second level is incorrectly reported as having 1066 square feet, when in fact it only has 988 square feet. Correcting this error would change the currently reported total living area of 2132 square feet to 2054 square feet. Because of the confusion with the measurements, it would seem prudent for the Board of Review to direct the assessor

to physically inspect and measure the subject property. Although Wilcox did not raise other errors to the Board of Review, in her August 2009 letter she also identifies other discrepancies, which could also be verified with an interior inspection by the assessor.

We find the evidence submitted is limited in analysis and does not draw conclusive opinions. The evidence submitted by Wilcox is not fully developed in support of an equity claim. Wilcox does not assert assessing methods were applied differently; nor does she provide evidence supporting proportionate differences between the subject's assessed values to market value ratio, in comparison to the properties she considers equity comparables. While evidence was submitted from a local real estate expert regarding market value it was void of any specific data or analysis to support the opinion. Additionally, Wilcox contends there is an error in the assessment under Iowa Code section 441.37(1)(d). She highlights in her protest to the Board of Review and subsequent appeal to this Board, as well as throughout her letters her belief the measurement of the dwelling is incorrect. Based upon pictures contained in the property record card it appears Wilcox is correct that there is no living area above a 6 foot by 13 foot area of the main level. However, no specific information has been presented as to how this impacts the total value of the property in this appeal. Regardless, based upon the evidence presented it appears to be a substantiated error, and it would be prudent for the Board of Review to direct an inspection of the property to obtain correct measurements.

The Board of Review offered evidence which demonstrates the properties selected by Wilcox for both an equity and market value claim are not comparable. We agree. The Board provided three properties it considers as equity comparables, however similar to Wilcox it failed to offer specific analysis to support the opinion. While there is no presumption 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). Based upon the foregoing, the Appeal Board finds that Wilcox has failed to provide sufficient evidence to support her claims.

### *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).

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).

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). There is no assertion by Wilcox that assessing methods were not uniformly applied. While Wilcox submitted several properties she considered as equity comparables, they were refuted as comparables by the Board of Review, and we agree with its judgment.

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). Wilcox offered a broker's opinion in regards to the market value of the property, however the opinion was restricted solely to the value conclusion with no supporting documentation or analysis demonstrating how the conclusion was reached.

Finally, Wilcox contends there is an error in the assessment. Section 441.37(1)(d) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(d), on which the appellant rests his claim, allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(d). We find that based upon the evidence, Wilcox clearly explains and shows through pictures on the property record card, there is no living area above a small portion of the main level, estimated at roughly 78 square feet. However, Wilcox does not provide any evidence of how this error may impact the market value of the property.

THE APPEAL BOARD ORDERS the assessment of the Wilcox, et al, property located at 13930 240<sup>th</sup> Avenue, Orleans, Iowa, of \$683,700 as of January 1, 2009, set by the Dickinson County Board of Review, is affirmed.

Dated this 2 day of June, 2009

  
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Karen Oberman, Presiding Officer

  
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Richard Stradley, Board Member

  
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Jacqueline Rypma, Board Member

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