

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Scott Couch,

Petitioner-Appellant,

v.

Monroe County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-68-0129
Parcel No. 020-6-18-016-000-000**

On June 23, 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)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Scott Couch, was self-represented and offered no new documentary evidence. The Monroe County Board of Review designated County Attorney Steve Goodlow as its legal representative. The Board of Review offered the certified record and new evidence including a tape and transcript of the oral hearing before the Board of Review, as well as aerials of the Couch property. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Couch is the owner of a residentially classified, single-family property located at 6870 127th Street, Eddyville, Iowa. The improvements include a one-story residence built in 2006. The property has 1660 square feet of total living area and a full, unfinished basement. Additional features include a two-car attached garage, as well as front and rear open porch areas. The site is four acres.

Couch protested to the Monroe County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Couch's property was \$191,087 allocated as follows: \$16,282 in land value and \$174,805 in improvement value.

Couch's claim was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district, under Iowa Code section 441.37(1)(a); 2) that the property is not assessable, is exempt from taxes, or is misclassified under section 441.37(1)(c); 3) that there is an error in the assessment under section 441.37(1)(d); and 4) that there has been a downward change in value since the last assessment under sections 441.37(1) and 441.35. Regarding Couch's assertion the property is not assessable, he states "hazardous winter travel. No school bus service in spring or during winter storm(s)." Couch's claim of error is that the "land is below normal for drainage, surrounded by agriculture, and live stock and located on a mud road." Couch also asserts real estate is trending down from 2008 to 2009. The Board of Review denied Couch's protest.

In his appeal to this Board, Couch marked the grounds that the assessment is not equitable with the assessments of other like property in the taxing district; and that there has been a downward change in value since the last assessment. Couch's written statement asserts the property assessment is excessive. 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). Accordingly, we do not consider downward change as a separate claim but will consider the claim that the property is over-assessed.

Couch did not initially present any new evidence and relied upon the evidence he submitted to the Board of Review. During his testimony, Couch referenced an insurance document for the cash value payment of \$145,724.70 for the property. This Board requested the document, and with no objection from the Board of Review, Couch submitted it as Exhibit 1.

Couch testified regarding the history of his property. He explained the existing improvements burned down in May 2006. He received an insurance settlement of roughly \$146,000 and used this money to build a new home on the same site. Couch noted that he used roughly \$5400 to \$5800 out-

of-pocket for disposal of the burned-out shell and site preparation for the new improvements. Couch asserts the correct value of the property is \$165,360, reflecting \$15,360 in land value and \$150,000 in improvement value. He bases this opinion on what he considers to be the correct site value, as well as an approximation of his actual costs associated with building the improvements.

Couch testified that the Board of Review came to his property for an on-site inspection prior to his actual hearing date. Board of Review minutes indicate the on-site inspection took place on May 19, 2009. Board of Review members Mark Knowles, Tom Adler, and Jason Popson, along with Monroe County Assessor Karen Fontinel, were present for the inspection. The minutes indicate the Board of Review was allowed to view the outside of the property, but Couch did not want to show the inside. Couch testified this was true. He declined to allow the Board of Review into his home for two reasons: there was one Board of Review member (unidentified by Couch) who was disrespectful, and Couch already had two representatives from the assessor's office inspect the interior and felt this was adequate.

Based upon the written transcript of the Board of Reviews hearing, we are concerned the Board of Review was acting in a punitive manner because of Couch's refusal to allow an interior inspection. Tom Adler, identified as the Vice-Chair of the Board and a real estate agent, stated concern over Couch's refusal to let the Board in to inspect the property. Couch testified to this Board and also to the Board of Review, based upon the provided transcripts, that he had already allowed "a couple of tax men" to walk through the property. Adler's response to this was that the Board of Review could not rely upon what someone else told them. We find this response troubling. It is undisputed that other county officials had indeed inspected the property, yet this Board of Review was unwilling to accept that verification. Adler implies that unless he and other Board of Review members personally inspect the property, the information on the property-record card is unreliable. Yet, Alder willingly accepts all other information provided by the assessor without personal verification.

Couch provided five properties he considered as equity comparables to his property. Couch indicated he obtained the properties he considered for equity comparables from the assessor's website. However, Fontinel stated the 2009 assessments are not updated on the website until after the Board of Review convenes; therefore, the assessment values of properties submitted by Couch were from 2008. This scenario creates a difficult situation for the taxpayer wishing to gather information for a protest or appeal. Fontinel indicated in her testimony that property owners can come into the office and obtain any information they want. What is not clear is if the property owners would know the information on the website is not current, or know they have the option of a personal visit to the assessing office.

Couch offered five properties as equity comparables, but we do not consider them all similar to the subject. One property has a total living area of nearly 7400 square feet, compared to Couch's total living area of 1660 square feet. A second property is a berm-style residence, compared to Couch's one-story design; and a third property carries an agricultural classification versus Couch's residential classification. The remaining two properties, one located at 6047 139th Trail referred to as the "Caudill property" and another property with no street address referred to as the "Bay property" offer similar style, size, and site. However, the total assessments of roughly \$160,000 and \$163,500 respectively are the 2008 assessments and not comparable to his 2009 assessment nor did these properties sell recently. Additionally, Couch failed to demonstrate what he believes to be the fair market value of these homes to in order to ultimately demonstrate inequity.

Couch did not offer any actual sales of properties that would be considered as comparable, to demonstrate market value. According to the Board of Review minutes, during that hearing, Couch referenced a flyer he had received in the mail which advertised a similar home for sale. Couch testified: "This thing could be my house's twin except it's five bedrooms, three baths, finished basement, [and] two-car garage. It's \$158,000." The property was located in Oskaloosa. Fontinel pointed out that the property was not located in Monroe County. We note that market value

comparables are not required to be located solely within the taxing jurisdiction and can be located in competing areas, but typically residential property sales would be most comparable from the same jurisdiction. *Bartlett & Co. Grain v. Bd. of Review of City of Sioux City*, 253 N.W. 2d 86,93-94 (Iowa 1977). However, knowing nothing else about this property, such as site size, quality/condition, or age, it is impossible for us to consider this property as comparable to Couch's residence.

Couch also offered his construction costs, in the form of the insurance settlement and some receipts verifying the quality of materials used in the home. Couch testified the insurance settlement amount of roughly \$146,000 was what he put into the new home. Based upon the written transcripts from the Board of Review, Couch did use the services of a contractor, thus we can reasonably assume entrepreneurial profit is included in these costs. We find Couch to be honest and have no reason to doubt his testimony regarding the cost of construction. We note, however, the cost of improvements at \$146,000 does not include the cost of site preparation or the value of the site itself.

While the Board of Review does not readily accept Couch's costs, neither does it repudiate the costs with evidence of other actual costs from like construction or from the *Iowa Real Property Appraisal Manual*. In testimony, Fontinel indicated the Board of Review believed the cost of construction for a similar property would be about \$100 per-square-foot. Yet she provided no support for how she or the Board of Review arrived at this number. When asked if the \$100 per-square-foot estimate was reflective of the improvement only or the entire property (site included), Fontinel indicated it was the improvements only. The subject has a total living area of 1660. If the estimate by the board is correct at \$100 per-square-foot, this would indicate a value of \$166,000 for the subject improvements versus the current improvement assessment of \$174,805.

The Board of Review offered four properties as equity comparables in Exhibit G. All four properties have agricultural classification versus the subject property's residential classification. All four properties are situated on larger sites ranging from twenty to almost forty acres with an average

site size of just over thirty-one acres, compared to the subject's four acre site. Therefore, the total assessed value cannot be considered for equity comparison, and only the improvement values can be used for equity comparison. Perhaps this is what the Board of Review wished for this Board to do, but its intent is not clear.

The assessed value per square foot for the improvements ranges from \$102.73 to \$125, with a median of \$105.47. The assessed value per square foot of the subject property improvements is \$105.30, within the range, and very proximate to the median. While all four properties appear to offer similar style, age, and, size, three of the four properties have basement finish. The one property that does not have any basement finish, similar to the subject property, sets the low end of this range at \$102.73 per square foot. Assuming that no other adjustments would need to be considered, such as location, quality/condition, the most similar property offered by the Board of Review indicates the improvements are assessed higher than other similar properties. However, because the analysis is incomplete, and because the market values of these properties were not provided we are unable to conclude by this evidence the property is inequitably assessed.

The Board of Review also offered exhibits H and J, which outlined sales of properties it considered as market value comparables. Exhibit H includes four sales ranging in price from \$137,560 to \$195,000 and all in a rural setting situated on 2 to 11.4 acres. The property with the most recent year built, is a berm-style home with no basement area, and we do not consider it a comparable. Of the remaining three properties two were built in 1977, and one was built circa 1900. With no adjustments or explanations as to why more similar sales were not considered, we do not consider these properties as comparables.

Exhibit J includes four sales of more similarly aged properties, all built in 2006 through 2007. All are similar size properties, however, all but one have basement finish. These sales range in price from \$155,000 to \$246,927. The lowest end of this range is set by the sale with no basement finish,

similar to the subject property. Additionally, all of the sales on Exhibit J are located “mostly in the city.” Fontinel indicated it was her belief, as well as the Board of Reviews, that “rural” properties had greater appeal. However, when pointed out to her, she could not explain why all but one of the “city” sales provided were higher than all of the rural sales.

While neither the Board of Review nor Couch offered compelling sales to demonstrate the market value of the subject property, the most compelling evidence of the sales submitted, would be the Templer property submitted by the Board of Review in Exhibit J. This property is a one-story residence built in 2007, has 1530 square feet, a two-car garage and no basement finish. Although it is situated on only 0.28 acres versus the subject’s 4 acres, this would likely be partially offset by its location within the city limits and access to city utilities and services. This property sold in July 2008 for \$155,000. Typically, one comparable alone is insufficient to demonstrate market value where a property like this is not identifiably unique; however in the absence of additional market data, other approaches to value may be considered. Couch offered receipts and testimony to the cost of his improvements, totaling roughly \$150,000 to \$152,000 when considering site preparation. This estimate does not include the value of the site. There was no testimony or evidence which refuted his actual costs.

We find that sufficient evidence has been provided to demonstrate the subject is assessed for more than authorized by law and the correct assessment based on a comparable sale and cost data.

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. § 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). Sales prices of the property or comparable properties in normal transactions must first be considered in arriving at market value. *Id.* If sales are not available or market value "cannot be readily established in that manner," other factors may be considered in arriving at market value. *Heritage Cablevision v. Bd. of Review of City of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990); § 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). Neither Couch nor the Board of Review submitted sufficient evidence to demonstrate the property was inequitably assessed as both parties failed to relate the assessed values to market value.

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). Only one credible comparable sale was provided in the record. Considering that sale, Couch also offered receipts and testimony that supported his assertion that the improvements were assessed for more than authorized by law. The Board of Review did not refute his actual costs with any substantiated costs of their own. Using this evidence together the record show what the correct assessment should be for the subject property.

THE APPEAL BOARD ORDERS the assessment of Scott Couch's property located at 6870 127th Street, Eddyville, Iowa, be modified to a total value of \$166,282, representing \$16,282 in land value and \$150,000 in improvements as of January 1, 2009.

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

Dated this 31st day of August, 2010



Karen Oberman, Board Chair



Richard Stradley, 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>8/31</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	