

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gary & June Swain,
Petitioner-Appellants,

v.

Palo Alto County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-74-0302
Parcel No. 390020095150

On December 18, 2009, the above-captioned appeal came on for consideration 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, Gary and June Swain, requested the appeal be considered without hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated County Attorney Peter C. Hart as its legal representative. It certified its record and also submitted evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Gary and June Swain, owners of property located at 35208 Lover's Lane, Ruthven, Iowa, appeal from the Palo Alto County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, brick dwelling with 3159 square feet of living area, no basement, an open twenty-eight square-foot porch, and a 983 square-foot attached garage. The home has a grade 2+10 quality classification. The dwelling was built in 1997, and is situated on a 0.314 acre site in Silver Lake Township.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$235,880, representing \$8640 in land value and \$227,240 in dwelling value.

The Swains protested to the Board of Review on the ground that the assessment is not equitable as compared with the assessments of other like property in the taxing jurisdiction under Iowa Code section 441.37(1)(a); and that there was an error in the assessment under section 441.37(1)(d). They claimed that \$159,710; allocated \$9500 to land value¹ and \$150,210 to the dwelling value, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating that the taxpayers failed to prove the grounds set forth in their petition.

The Swains filed their appeal with this Board and urged the same grounds for relief. We note that their claim of error essentially reiterates that the property is not assessed equitably with like properties, and we, therefore, address only the claim of inequity.

The Swains submitted information on two nearby properties they considered comparable to the subject property in support their equity claim. According to the Swains, both of these properties are more valuable than theirs because the properties have finished basements, are on larger lots, have more lake frontage, and are on paved roads. They assert that these dwellings have 2647 and 2904 square feet of living area, respectively, whereas their dwelling has 3159 square feet of living area. Swains state that both have greater lake frontage than theirs. They report that one property has 290 feet of lake frontage and the other has 170 feet of lake frontage, as compared to their 120 feet of lake frontage. No property record cards were submitted for these properties and information was lacking such as dwelling age, location, quality classification, basement finish, garage size, site size, or land valuation method used, necessary to adequately compare these properties to theirs.

We note from the property record card that the Swains purchased the property in 2006 for \$235,000. Palo Alto County submitted a declaration of value for a resale of the subject property in August 2009, after the assessment date, for \$265,000. We agree with the Board of Review that the

¹ This value is greater than the \$8640 value assessed to the land.

2006 sale price, which is closely aligned with the property's assessed value, offers a reasonable measure of the fair market value for the subject property.

Additionally, considering that the property, which is currently assessed at \$235,880, was purchased in 2006 for \$235,000 and resold in August 2009 for \$265,000, the assessment is consistent with other indicators of fair market value. Reviewing all the evidence, we find that it is insufficient to support a conclusion that the Swain's January 1, 2009, assessed value is inequitable as compared to similar properties in the county.

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.*

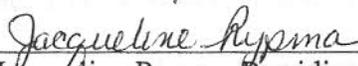
If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

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). The first requirement of this test is to show comparable properties exist. There was little to no evidence in the record to determine the comparability of the properties provided. Therefore, the evidence was not sufficient to prove inequity as required by these criteria.

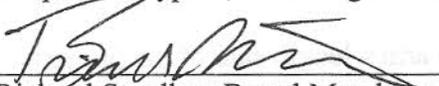
Viewing the evidence as a whole, we determine the Swains failed to prove, by a preponderance of the evidence, their claim of inequitable assessment as of January 1, 2009. We, therefore, affirm their property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$235,880, representing \$8640 in land value and \$227,240 in dwelling value.

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

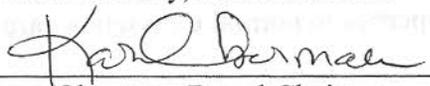
Dated this 6 day of January 2010.



Jacqueline Rypma, Presiding Officer



Richard Stradley, Board Member



Karen Oberman, Board Chair

Copies to:
Gary & June Swain
35208 Lover's Lane
Ruthven, IA 51358
APPELLANTS

Peter C. Hart
Palo Alto County Attorney
2105 Main Street
P.O. Box 74
Emmetsburg, IA 50536
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>1-6</u> , 20 <u>02</u>	
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 C. Hart</i></u>