

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joe & Becky Elert,
Petitioners-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1240
Parcel No. 120/05217-001-000

On June 14, 2010, 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. Petitioners-Appellants, Joe and Becky Elert, requested their appeal be considered without hearing. They are self-represented. The Board of Review designated Assistant County Attorneys, Ralph E. Marasco, Jr. and David Hibbard as its legal representatives. The Elerts submitted documentary evidence to support their appeal. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Joe and Becky Elert, owners of property located at 2829 Summit Vista Drive, Des Moines, Iowa, appeal from the Polk County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a two-story dwelling having 2412 total square feet of living area, and a 1288 square-foot basement with 1160 square feet of finish. The property is also improved by a 48 square-foot open porch and a 728 square-foot deck. The dwelling has an attached 528 square-foot garage. The dwelling is brick and frame, and the garage is all brick. The dwelling was built in 1961, and has a 3-10 quality grade classification. The improvements are situated on a 0.273 acre site. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$215,500, representing \$29,900 in land value and \$185,600 in improvement value.

The Elerts protested to the Board of Review on the grounds that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that there is an error in the assessment under section 441.37(1)(d). However, their claim of error essentially alleges inequity under section 441.37(1)(a) because other property assessments were reduced by a higher percentage than their assessed value. They requested a reduction in total assessment to \$207,650. The Board of Review denied the protest stating, "The assessed value of this property was not changed because market data indicates that the property is assessed at its fair market value." The decision did not address the ground of equity.

The Elerts filed their appeal with this Board and urged the ground of equity. They stated property assessments in their neighborhood dropped 3-6% and homes of the same caliber dropped on average 5-6%, whereas their property dropped by 1/3 of a percent. In Elerts' opinion, their assessed value should be reduced similarly to neighboring properties. They seek a reduction in value to a total assessment of \$205,000, representing \$29,900 in land value and \$175,100 in dwelling value.

The Elerts provided a list of twenty-one properties on their street and an adjoining cul-de-sac, and compared the changes between the 2007 and 2009 assessments. They concluded the properties have decreased on average ranging from 3.5% to 6.1% and claim their property is most similar to five other larger homes in the neighborhood, which were reduced approximately 4.8% on average.

According to the Board of Review appraiser analysis, the Elerts' property assessment was reduced by 8% in 2007, but other neighboring properties were not reduced. The analysis justifies Elerts' smaller 2009 reduction as compared to neighboring properties based on this fact. It concludes a market value of \$260,540 based on the sales approach to valuation and a value of \$215,500 based on the cost approach to value. Appraiser Askew used three 2008 sales and two 2007 sales in the Board of Review analysis. Askew adjusted for lot size, living area, quality grade, brick exterior, basement finish, condition, age, and other amenities. Adjusted sale prices of the comparable properties ranged

from \$218,521 to \$289,631. Adjusted sale prices per square foot ranged from \$103.33 to \$150.77. The Elerts' property is assessed at \$89.34 per square foot which is well below the lower end of the adjusted range. While we can appreciate the Elerts' concern for uniformity in the assessment process and the fact that their assessment was reduced less than their neighbors in 2009, it appears the prior 2008 reduction compensated for the difference. The Elerts' 8% reduction in 2008 far exceeds the typical reduction in their neighborhood in the 2009 reassessment. Reviewing all the evidence, we find the preponderance of evidence shows the Elerts' property is equitably assessed.

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 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 six criteria include evidence showing

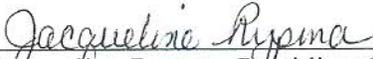
“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

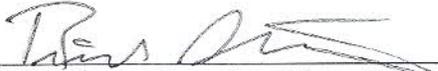
Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The evidence does not support a claim of inequity considering the cumulative effect of both the 2008 and the 2009 reductions in the subject property’s assessment.

Viewing the evidence as a whole, we determine the Elerts have failed to prove by a preponderance of the evidence that their property is inequitably assessed as of January 1, 2009. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$215,500, representing \$29,900 in land value and \$185,600 in dwelling value.

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

Dated this 26 day of AUG. 2010.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

Copies to:
Joe & Becky Elert
2829 Summit Vista Drive
Des Moines, IA 50321
APPELLANTS

Ralph E. Marasco, Jr./David Hibbard
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
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>8.26</u> , 201 <u>0</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
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