

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Tony Schmitz,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1293
Parcel No. 240/00714-047-077

On August 5, 2010, the above-captioned appeal came on for 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-Appellant, Tony Schmitz, requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney, David Hibbard, as its legal representative. It also 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

Tony Schmitz, owner of property located at 12283 NW 84th Place, Grimes, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story dwelling having 2768 total square feet of living area which includes 182 square feet of finished storage area above the garage, a 3204 square-foot, walk-out unfinished basement, and 1171 square foot attached garage. The dwelling was built in 2007, and has a 1-05 quality grade. The dwelling is situated on a 1.670 acre lot.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$547,600, representing \$102,000 in land value and \$445,600 in dwelling value.

Schmitz protested to the Board of Review on the grounds (1) the assessment is not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.37(1)(b), and there is an error in the assessment under section 441.37(1)(d). The error claimed was failing to consider the effect of an existing easement at the rear of the lot on the land value. He claimed the \$454,581, allocated \$91,800 to land and \$362,781 to the dwelling, was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part, by giving a 10% adjustment to the land value because of the easement and reducing the total assessment to \$515,500, allocated \$91,800 to land value, and \$423,700 to building value.

Schmitz filed his appeal with this Board and claimed the ground of inequitable assessment.

He submitted evidence of two equity comparables in his neighborhood which he believed to be similar dwellings, yet assessed lower than his property. We note that both of these dwellings are slightly older and given lower quality grades than the subject property, which may account for some of the difference in value. However, the assessor's cost analysis per square foot, prior to adjustments for items such as physical depreciation, neighborhood or market adjustments; may provide a measure for comparison. According to the cost report, the base cost per square foot values for the main living area of the two listed properties was \$80.55 per square foot and \$69.11 per square foot, respectively, as compared to \$84.95 per square foot for the subject property. Of the similarly graded properties offered by Schmitz, main level costs are \$80.55 per square foot and \$83.03 per square foot. Although Schmitz' main level costs are somewhat higher, the other two properties are larger which may account for the lower per square foot pricing.

One property identified by Schmitz, located at 12284 NW 84th, with 924 square feet of living area over the garage allocated \$57.08 per square foot in base costs for this upper level area, as opposed to the \$125.38 per square foot in base costs allocated for the subject property's over-garage area

The *Iowa Real Property Appraisal Manual* which assessors are required to use, defines “Quarters” as upper floor living area above non-living area (i.e. garages, porches, etc.).¹ It values above-garage quarters at a lower value per square foot than main level area. The current manual would value Schmitz quarters at approximately \$6700 which brings into question the correctness of the assessor methodology. We are aware that the assessor’s office has not yet implemented use of the 2008 manual for its cost reports; however, it does serve generally as a basis for comparison, and suggests inequitable pricing of the subject property over-garage quarters.

Schmitz, at the request of this Board, provided an appraisal completed by Jeff Potthoff of Potthoff Appraisal in Waukee, Iowa, for construction loan closing purposes. He indicated the subject property’s immediate neighborhood is mostly estate sized lot and homes with limited turnover and good demand for large quality homes of a variety of styles. Potthoff describes the subject property as a “newly constructed home with high quality construction materials and craftsmanship.” He searched sales within one year and found few similar sales were available due to the limited turnover of homes in the area of this size, quality, and style. Potthoff identified four sales within the immediate area. All required market data adjustments for square footage, age/condition, lot and basement finish. No location adjustments were needed because of their area similarity.

Adjusted sales prices ranged from \$475,900 to \$649,800, or \$220.05 to \$282.90 per square foot. Potthoff adjusted the first floor area at \$60 per square foot and the second floor “bonus room” at \$30 per square foot because he deemed the bonus room to have one-half the market value of first-floor area. His adjusted value for the bonus room was \$5500. In his analysis, the subject property is worth \$527,757 by the cost approach using the *Marshall Swift Residential Cost Handbook* and \$510,000 by the sales approach. His final opinion of value was \$510,000 as of November 4, 2008, within two months of the assessment date.

¹ 2008 *Iowa Real Property Appraisal Manual* 7-67.

Reviewing the entire record, we find the preponderance of the evidence supports Schmitz' claim of inequitable assessment. Both the *Iowa Real Property Appraisal Manual* and the comparable property identified by Schmitz, indicates the assessor did not apply the cost method uniformly to a comparable property for pricing of the above-garage quarters, and it deviated significantly from the manual's base cost pricing of quarters. Additionally, in the opinion of Schmitz's appraiser, the above-garage bonus room is worth approximately \$5500. The manual indicates a base cost of approximately \$6700. In the assessor's cost report of the comparable neighborhood property, the subject bonus room would be worth approximately \$6000, whereas the Schmitz cost report indicates a value of approximately \$23,000. We are convinced that the over-garage quarter of the subject property is inequitably assessed as compared to the similar property based on multiple factors. It far exceeds the first-floor base cost of the owner's equity comparables and those provided by the Board of Review, it exceeds the sales adjustment for square footage in Exhibit A, and it exceeds the base cost for quarters prescribed by the *Iowa Real Property Manual* to assure uniformity in assessment methods and used by the assessor for an adjacent comparable property.

Although Schmitz provided an exhibit indicating the land area of the site affected by the easement and a photograph showing the wet drainage area of the site, we were not presented with comparably sites similarly affected by easements and any discounting or reduction given in those assessments to determine equitability. Because insufficient evidence was provided to prove the land portion of the assessment was inequitable, it remains unchanged.

We find the Potthoff appraisal to be the most credible evidence of the fair market value of the Schmitz property and the most reasonable method of determining an equitable assessment. Accordingly, the preponderance of the evidence supports an assessed value of \$510,000 for the subject property.

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 the ratio of the difference

between the assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). While the record does not show inequity by traditional methods under Maxwell, Schmitz submitted an independent appraisal establishing the market value of the subject property. While the appraisal was completed for mortgage purposes, it was completed just prior to the January 1, 2009, assessment date. We consider the appraisal to be credible, demonstrating the subject property is inequitably assessed, and its correct assessment.

We find the cost method used by the assessor's office for valuing the subject property was not uniformly applied creating an inequity in Schmitz's assessment. Further, it deviated significantly from the pricing method prescribed by the *Iowa Real Property Appraisal Manual* to achieve uniformity in assessment.² The Potthoff appraisal provided the most credible evidence of a fair and equitable assessment value.

Viewing the evidence as a whole, we determine the preponderance of the evidence supports Schmitz claim of inequity in the January 1, 2009, assessment. We, therefore, modify 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 \$510,000, representing \$91,800 in land value and \$418,200 in dwelling value.

² *Id.* 1-2.

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

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

Dated this 19 day of October 2010.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Chair

Richard Stradley
Richard Stradley, Board Member

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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>10-19</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
Signature	<u>Jacqueline Rypma</u>