

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Dennis DeJoode,**  
Petitioner-Appellants,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1314**  
**Parcel No. 080/07148-000-000**

On October 13, 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, Dennis DeJoode, requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney Anastasia Hurn 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*

Dennis DeJoode, owner of property located at 1903 22nd Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$8300 for the vacant land only. DeJoode protested to the Board of Review on the ground the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that there was an error in the assessment under section 441.37(1)(d). The specific error he claims is that the property should have a lower assessed value because he paid \$6000 for it in 2008 and, therefore, does not deserve a 4% increase in assessed value. He also stated the lot was vacant and does not generate any income. He claimed that

\$6000 was the actual value and a fair assessment of the property. The Board of Review denied the protest.

DeJoode then filed his appeal with this Board and claimed an error in the assessment and that there has been a downward change in value of the property. The error he claimed is essentially that the subject property is over-assessed. Furthermore, 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 and instead consider the claim of over-assessment.

The subject lot is 0.332 acres (50 feet x 289 feet).

DeJoode testified that he paid \$6000 for the subject property in 2008. DeJoode questioned the 4% increase in assessment in this area when he observes a decline in the area. He described the subject lot is difficult to maintain because people dump trash and trespass on the property.

Cris Swaim of Swaim Appraisal Services in West Des Moines completed an appraisal of the subject property and testified on behalf of the Board of Review. Swaim used three comparable lot sales to determine his estimate of market value. The sales range from \$6500 to \$14,950. Swaim determined the fair market value of the subject property for January 1, 2009, to be \$8500.

The Board of Review Appraiser Analysis in the certified record indicates the subject property sale in 2008 includes ten properties that sold for a total of \$500,000. Therefore, the sales price is an allocated price. This fact would make the sale of the subject property abnormal as a discounted purchase transaction under Iowa Code Section 441.21(1)(b). The analysis also indicates that the subject property is assessed the same as surrounding property with a 20% deduction for vacancy or non-use.

Reviewing all the evidence, we find the preponderance of evidence does not support DeJoode's contention the subject property is assessed for more than authorized by law. We find the Swaim

appraisal provides credible evidence of the fair market value of the subject property and supports the January 1, 2009, assessment.

#### *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).

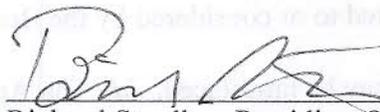
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). DeJoode failed to prove by a preponderance of evidence that the subject property is

assessed for more than authorized by law. To the contrary, the Swaim appraisal supports the assessment as accurately reflecting the property's fair market value.

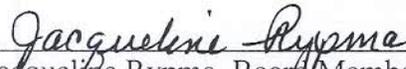
Viewing the evidence as a whole, we determine that substantial evidence was lacking to support DeJoode's claim the property was assessed for more than authorized by law as of January 1, 2009. Therefore, we affirm the DeJoode property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$8300.

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

Dated this 14 day of December 2010.

  
Richard Stradley, Presiding Officer

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, 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>12-14</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
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