

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Larry & Wendy Slegh,**  
Petitioners-Appellants,

v.

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

**ORDER**

**Docket No. 09-77-1348**  
**Parcel No. 311/00341-613-001**

On June 21, 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, Larry and Wendy Slegh, requested their appeal be considered without hearing. They were self-represented. The Board of Review designated Assistant County Attorneys, Ralph E. Marasco, Jr. and David Hibbard, as its legal representatives. Larry and Wendy Slegh submitted documentary evidence in support of their petition in addition to the certified record. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Larry and Wendy Slegh, owners of property located at 609 Oakhurst Drive, Grimes, 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 one-story townhouse having 1340 total square feet of living area, and a full, unfinished basement. The property is also improved by a 144 square-foot patio, a 78 square-foot open porch, and an attached, 440 square-foot garage. It was built in 1998 and has a 3-10 quality grade classification. The improvements are situated on a 0.072 acre site. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$170,700, representing \$22,300 in land value and \$148,400 in improvement value.

The Sleghs protested to the Board of Review on the ground the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a), and that the property is assessed for more than authorized by law under section 441.37(1)(b). They requested a reduction in the total assessment to \$140,800, representing \$22,300 in land value and \$118,500 in dwelling value. The Board of Review granted the protest, in part, and reduced the total assessment to \$149,000, representing \$22,300 in land value and \$126,700 in dwelling value.

The Sleghs filed their appeal with this Board and urged the ground of equity. In their accompanying correspondence they stated the property was assessed above the actual and fair market value. Accordingly, we consider their appeal on the grounds of equity and over-assessment. In Sleghs' opinion, they are not assessed equally with similar Oakhurst Townhomes. They report their property assessment increased 11.63% from the 2007 assessment, whereas one property increased only 2.5% and another increased by 8.9%. The Sleghs indicate Polk County residences increased only 0.7% on average according to Jim Willett, Deputy Assessor in a document addressing the Polk County Assessor's 2009 Residential Revaluation.

According to Sleghs, the property at 611 Oakhurst Drive, listed for \$149,900, is assessed for \$900 more than theirs and has a finished basement, an additional bedroom, and a wood deck. This property sold for \$143,250 in September 2009 which is \$29,350 less than the 2009 assessment. The Multiple List Service (MLS) exhibit for this property indicates similar style, age, above-grade living area, and features as the subject property with a fully finished basement, including an additional bedroom and bath in the basement. The property record card for this property indicates it has two bedrooms, and two bathrooms, but does not list any basement finish. It also indicates that the 2009 property assessment is \$172,600 which is \$23,600 more than the subject property's current assessment.

The sale price of this property and its comparability, and apparent additional features may indicate the Sleghs' property is over-assessed.

The Sleghs identified another townhouse located at 606 Oakhurst Drive with similar style, age, above-grade living area, and features as the subject property which has 250 square foot of basement finish including an additional bedroom and bath. This property has a 144 square-foot deck and no patio. It is assessed higher than the subject property at \$152,000. The third property identified by the Sleghs is located at 618 Oakhurst Drive. It is similar in style, age, and features of the subject property. It has 37 square feet less total above-grade living area, 43 square feet less basement square footage, is a higher quality grade, and has a slightly smaller garage and porch than the subject. Similar to the subject property, it has two bedrooms, two bathrooms, and no basement finish. This property is assessed lower than the subject property at \$139,600. The reason for the difference of \$9400 is unclear from the record and tends to support the Sleghs' claim of over-assessment.

The Sleghs also provided information on a property located at 604 Oakhurst Drive similar to the subject property in style, age, living area, grade, and condition. This property was initially assessed at \$170,600, and was reduced by the 2009 Board of Review to \$148,900. Both its initial and modified assessments were comparable to those of the subject property and do not suggest inequity. The Sleghs provided information on two additional properties. The first of these, located at 1006 SW 4th is similar to the subject property but seven years newer. It sold for \$164,740 in March 2008 and is assessed at \$161,800, significantly less than the Slegh assessment. The Sleghs also identified a property, located at 335 Woodbine, which is a two-story townhouse dissimilar to the subject property its style and grade. It sold in March 2007 for \$137,000 and is assessed at \$134,400. We do not find it comparable for appeal purposes.

The Board of Review lists five sales of properties it considers comparable. Four occurred in 2008 and one in late 2007. They are all one-story townhouses. Two are similar in above-grade living

area, quality grade, garage stalls, and lack basement finish. We consider them comparable to the subject property. Adjusted sale prices ranged from \$111.01 per square foot to \$131.09 per square foot with a median of \$113.88 per square foot. The Sleghs' property is assessed at \$111.19 per square foot, well within the range and below the median of the comparable properties.

According to the Board of Review appraiser analysis, the initial property assessment was not equitable. Units in this development were uniformly adjusted by decreasing the grade factor from 3-05 to 3-10, and by applying a 10% market adjustment to them. These changes resulted in the value reduction recommended to and adopted by the Board of Review. The adjusted sales in the appraiser analysis suggest the subject property is not assessed for more than authorized by law.

Reviewing all of the evidence, even though one property submitted by the Sleghs indicates the assessment may be high, we find the Sleghs did not prove by a preponderance of the evidence their claims that the property is over-assessed or inequitably assessed as of January 1, 2009. The weight of the evidence, particularly the sales submitted by the Board of Review, show the property is not over-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 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). We find the uniform reductions to the subject property and other townhouses in the development adopted by the Board of Review remedied the inequitable assessment claimed.

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). While the evidence suggested the initial property assessment was over-assessed, it does not support this claim after the reduction made by the Board of Review.

Viewing the evidence as a whole, we determine the Sleghs have failed to prove by a preponderance of the evidence that their property is inequitably assessed or over-assessed as of January 1, 2009. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$149,000, representing \$22,300 in land value and \$126,700 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 3 day of August 2010.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Member

Karen Oberman  
Karen Oberman, Board Chair

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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>8.3</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	<u>[Signature]</u>