

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Edward B. Bodensteiner,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 09-77-1467**  
**Parcel No. 080/06794-000-000**

On January 11, 2011, 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. The Petitioner-Appellant, Edwin B. Bodensteiner, was self-represented and submitted evidence in support of the appeal. The Board of Review designated Polk County Assistant Attorney Anastasia Hurn as its legal representative. It did not submit new evidence in addition to the certified record. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Edward Bodensteiner, owner of property located at 1344 22nd Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$63,000; representing \$13,000 in land value and \$50,000 in improvement value. Bodensteiner protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified Bodensteiner the January 1, 2009, assessment was not changed stating "the property was assessed at fair market value."

Bodensteiner then appealed to this Board on the same ground. He also protested on the grounds that the property was not equitably assessed under section 441.37(1)(a) and that there had

been a downward change in the value of the property under sections 441.37(1) and 441.35(3). These additional claims of equity and downward trend in value were not raised before the Board of Review and, as such, we have no jurisdiction to consider the claims. Bodensteiner valued the property at \$47,600.

According to the property record card, the subject property is a two-story, frame dwelling having 1818 total square feet of living area and a detached, 900 square-foot garage. The dwelling was built in 1907 and has a 4+00 quality grade. It has been converted into a three-unit apartment building. The dwelling is situated on 0.222 acres.

Bodensteiner's opinion is that his property is over-assessed compared to other properties in the area. Bodensteiner questioned the three comparable properties that the Board of Review considered as comparable properties in its Board of Review Appraiser Analysis. This Analysis was included in the certified record.

In the Analysis the appraiser concluded the subject's value should not be changed because the sales comparison and income approaches supported the assessment. The Analysis used three sales located within a few blocks of Bodensteiner's property. The properties were all purchased by Critelli Properties in 2007, but were adjusted for date of sale, as well as for various other factors. The adjusted values ranged from \$51,885 to \$71,819. The appraiser concluded a value of \$68,452 based on the sales. We note this was the median sales price of the three properties, not an independent calculation by the appraiser.

The income approach valued the subject property at \$67,824. There was nothing in the record to show how this value was determined.

Bodensteiner testified, as we have noted, that all three of the comparables were owned by landlord Critelli Properties. Bodensteiner commented on recent problems Critelli had regarding the upkeep and maintenance of his properties, and he supplied a newspaper article detailing the situation.

Bodensteiner questions the purchase of these properties by Critelli, as he believes Critelli paid too much for them. We note that two of the three properties were recorded on the same day, which may indicate an abnormal sales condition such as the purchase of two properties intended to operate as a unit. If this was the case, those properties should have been excluded as abnormal sales under Iowa Code section 441.21(1)(b) unless an adjustment could be made for that factor. Bodensteiner testified that these two properties also had the same property manager prior to the sale.

Bodensteiner presented evidence of six properties that he believes are comparable to the subject and indicate the properties sold for less than the assessment. All of the sales occurred after the January 1, 2009, assessment date, but all did occur in the calendar year 2009. The properties located at 1420 22nd Street and 1555 24th Street were classified residential, not commercial like the subject property. For this reason, we do not find them comparable to the subject property. Additionally, the sale at 1420 22nd Street was to the City of Des Moines, which is an exempt organization, and this sale would indicate it has the potential to be abnormal. Likewise, the sale of 1547 4th Street had two back-to-back sales in 2009, the first of which was from a financial institution, making this sale less reliable. The sale of 1639 Oakland is abnormal because it sold from a loan services company (a financial institution). The two remaining sales, located at 1438 9th Street and 1822 6th Avenue, are both commercial properties like the subject. They are both slightly larger in total square footage and have slightly smaller land area. These two properties each sold for \$55,000; and both sales were lower than their assessed value. Although the two properties are relatively similar to the subject, we are unable to determine their actual comparability without any testimony regarding necessary adjustments.

Bodensteiner also pointed out to this Board that his land assessment was higher than other assessments that were the same size and in the same area. In fact, his land assessment is \$4500 higher than the others in the subject area. Nothing in the record, however, allows us to understand this difference or make an adjustment to it.

Bodensteiner is of the opinion that because he stipulated with the Board of Review for a lower assessment on two other properties, and based on the data he submitted on the six other properties, that the subject property's assessment should be reduced. He believes the subject property's market value is about 75% of the assessed value. Bodensteiner was unable to determine what the fair market value of the subject property was based on sales information.

Reviewing all the evidence, we find the preponderance of evidence does not support Bodensteiner's contention the subject property is assessed for more than authorized by law. The Board of Review did not provide any additional evidence. They relied only on the certified record.

### *Conclusions of Law*

The Appeal Board based its decision on 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 determined 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. Iowa Code section 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). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

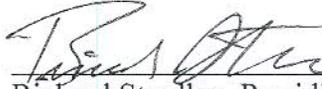
Iowa law also states that when determining the market value of the subject property sale prices of comparable properties in *normal* transactions may be considered. Abnormal sales are prohibited from consideration unless they are “adjusted to eliminate the effect of factors which distort market value.” Iowa Code § 441.21(1)(b). Abnormal sales include, but are not limited to, “sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.” *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). We find Bodensteiner’s use of abnormal sales, sales of dissimilar properties and unadjusted sales of comparable properties makes his sale analysis unreliable.

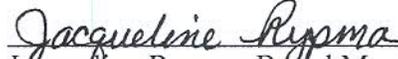
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa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

Therefore, we affirm the Bodensteiner property assessment of \$63,000 as of January 1, 2009, as determined by the Board of Review.

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

Dated this 28 day of February, 2011.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
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>2-28</u> , 2011.	
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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