

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Christopher A. Young,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 09-77-1491**  
**Parcel No. 010/00504-000-000**

On October 4, 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. The Appellant, Christopher Young, requested the appeal be considered without a hearing. The Board of Review designated Polk County Assistant Attorneys Ralph Marasco, Jr. and David Hibbard as its legal representatives. It submitted the certified record. The Appeal Board now having examined the entire record, and being fully advised, finds:

*Findings of Fact*

Christopher Young, owner of the property located at 3715 SW 9th Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing the property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$96,300; representing \$27,800 in land value and \$68,500 in the improvement value. Young 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); that there is fraud in the assessment under section 441.37(1)(e); and that there had been a downward change in value since the last assessment under sections 441.37(1) and 441.35(3). The Board of Review reduced the assessed value to a total of \$81,500; allocated \$27,800 to the land value and \$53,700 to the improvement value.

Young then appealed to this Board. He listed the following grounds on his form: error under section 441.37(d) instead of more than authorized by law, and the other two grounds appealed to the Board of Review. First, we cannot consider the error claim because it was not pled to the Board of Review. *See* Iowa Code § 441.37A(1). Second, 2009 was a re-assessment year, therefore a challenge based on downward change in value is akin to market value claim. *See Dedham Co-op. Ass'n. v. Carroll County Bd. of Review*, 2006 WL1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and instead consider only the claim of over-assessment. Furthermore, Young's fraud claim is nothing more than the market has decreased and the property is in below normal condition. Based on the appeal form, the only real issue before us is whether the property is over-assessed. Young believes the assessment should be \$74,700.

According to the property record card, the subject property is a one-story service repair building with 3000 square feet of area, built in 1957. The structure is concrete block with a brick veneer front. The property is owner-occupied. The property is also improved by 2160 square feet of asphalt paving. It has a 4+00 quality grade and is in below normal condition.

Young did not provide any data, such as sales of comparable properties, to support his opinion that the property has a market value of \$74,700.

The Board of Review did not submit any additional information in support of its value. The Board of Review relied on the certified record. The Board of Review Appraiser Analysis supports the value of \$81,500 based on five comparable sales, including the 2004 sale of the subject property, with a median adjusted value of \$71,580 and weighted value of \$81,645. We find this to be the only reliable indicator of the subject property's value, as of January 1, 2009.

We find there is insufficient evidence to support Young's claim that the subject is over-assessed.

### 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 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. Iowa Code section 441.37A(3)(a).

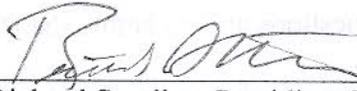
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* 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).

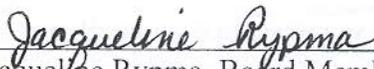
In an appeal that alleges the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Viewing the evidence as a whole, we determine substantial evidence is lacking to support Young's claim of over-assessment as of January 1, 2009. Young did not provide data to support what the assessed value should be. We, therefore, affirm the Young property assessment as determined by

the Board of Review. The Appeal Board determines the property assessment as of January 1, 2009, is \$81,500; representing \$27,800 in land value and \$53,700 in building value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment of the Young property located in Des Moines, Iowa, as determined by the Polk County Board of Review is affirmed.

Dated this 29 day of November, 2010.

  
Richard Stradley, Presiding Officer

  
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>11-29</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:	