

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Christopher A. Young,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1492
Parcel No. 050/00768-000-000

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 appeal was filed by Christopher Young who was self-represented and requested the appeal proceed without a hearing. The Board of Review designated Polk County Assistant Attorneys Ralph Marasco, Jr. and David Hibbard as its legal representatives. It submitted evidence in addition to the certified record. The Appeal Board now having examined the entire record, and being fully advised, finds.

Findings of Fact

Christopher Young, owner of property located at 2800 East Walnut, 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 \$65,800; representing \$17,400 in land value and \$48,400 in dwelling value. Young protested to the Board of Review on the grounds that there is an error in the assessment under Iowa Code section 441.37(1)(d), claiming "No one's assessment should have changed due to market deterioration and stagnation;" that there was fraud in the assessment under Iowa Code section 441.37(1)(e); and that there was a downward change in the assessed value since the last assessment under sections 441.37(1) and 441.35(3). In response to the protest, the Board or Review notified Young the January 1, 2009, assessment would not be changed

stating, "The assessment value of this property was not changed because no clerical or listing error was found in the assessment."

Young then filed an appeal with this Board on the same grounds and seeks \$3800 in relief. We first note that Young's error claims actually appears to be a challenge to assessment based on a market value theory, as he again reiterates market stagnation and deterioration of the property. Additionally, we note that 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. Carrol County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006.) The plain language in this appeal is related to the market value of the subject property. Accordingly, we will consider whether the property is over-assessed, rather than whether there was an error in the assessment or a downward change in value. Young values the property at \$62,000, allocated \$17,400 to land value and \$44,600 to improvement value.

According to the property record card the subject property is an 1102 square-foot, one-story frame dwelling with 816 square feet of living area on the main level and a 286 square-foot, finished attic. The property was built in 1925 and has a detached garage built in 1978, as well as two other small sheds. The dwelling has a quality grade factor of 5+10, and the property site consists of 0.196 acres of land.

Young asserted error in the assessment and a fraudulent assessment because the property has natural deterioration and market values have fallen. Young did not submit any data, such as sales comparables, to support his \$62,000 opinion of value.

The Board of Review submitted an appraisal of the subject property completed by Norman (Mike) Swaim of Swaim Appraisal Services, West Des Moines, Iowa. Swaim's appraisal was as of January 1, 2009; the assessment date. Swaim valued the subject property at \$60,000 by the sales comparison approach.

Swaim reported thirteen sales using his search criteria of older homes with sales between \$45,000 and \$80,000 and a total living area above 950 square feet. The median sale price was \$48,500. Eleven of the thirteen sales were either REO sales, "short sales" or distressed sales such as estates. He comments since 85% of the sales in this area in 2008 were distressed, it affects the values of all of the properties that would be competing for sales.

Swaim inspected the interior and exterior of the property. He noted the subject property had some deferred maintenance that included peeling paint on the trim and very old floor coverings inside.

Swaim completed the sales approach to valuation using four comparable sales within a distance of nine blocks of the subject property. The sale prices of the comparables ranged from \$49,900 to \$68,008, or \$33.99 to \$65.13 per square foot. Swaim made adjustments for seller concessions, gross living area, condition, quality of construction, garages, heating/cooling features, and other amenities. Net adjustments ranged from 0.0% -6.6%. Adjusted sales prices ranged from \$52,900 to \$68,000. Swaim values the property at \$60,000 by the sales approach.

Even though Young did not provide evidence of the market value of his property, the Board of Review did. The best evidence in the record is the Swaim appraisal. As previously noted, the appraisal reflects the assessment date and therefore, we modify the assessment to reflect the appraised value of \$60,000.

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.* 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).

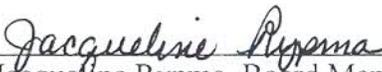
We find the evidence supports the claim that the property is over-assessed. We, therefore, modify the assessment of the subject property located at 2800 East Walnut, Des Moines, Iowa, as determined by the Polk County Board of Review as of January 1, 2009, to \$60,000.

THE APPEAL BOARD ORDERS that the Young's property located at 2800 East Walnut, Des Moines, Iowa, assessment be modified to a total of \$60,000; representing \$17,400 in land value and \$42,600 to the dwelling as of January 1, 2009.

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 assessments referenced herein on the subject parcels shall be corrected accordingly.

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	