

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Tonya Allbee,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 09-77-1683**  
**Parcel No. 170/00445-208-000**

On December 2, 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. Petitioner-Appellant Tonya Allbee requested the appeal be considered without hearing. She was self-represented. The Board of Review designated Assistant County Attorneys David Hibbard and Ralph Marasco, Jr. as its legal representatives. The Appeal Board now having examined the entire record and being fully advised, finds:

*Findings of Fact*

Tonya Allbee, owner of property located at 8150 NE 27th Avenue, Altoona, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story dwelling having 2115 total square feet of living area. It has a full, walkout basement with 2030 square feet of finish and a 712 square-foot, attached garage. The property is also improved by a 63 square-foot, open porch and a 414 square-foot deck. The improvements were built in 2006. The dwelling has a 2+00 quality grade classification and is in normal condition. The improvements are situated on a 3.788-acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$454,300, representing \$63,700 in land value and \$390,600 in improvement value.

Allbee protested to the Board of Review on the ground that there has been a downward change in value since the last re-assessment under Iowa Code sections 441.37(1) and 441.35(3). However, we note, that the appellant’s claim of downward change in value in an assessment year is akin to a challenge on market value. *See Dedham Coop. Ass’n v. Carroll County Bd. of Review*, No. 05-1422, 2006 WL 1750300 (Iowa Ct. App. June 28, 2006).

The Board of Review denied the protest, stating, “The assessed value of this property was not changed because the market data indicates that the property is assessed at its fair market value.”

Allbee filed her appeal with this Board checking the box for inequitable assessment; however in the text of an accompanying letter, she states the property was over-assessed.

Allbee identified three properties which she believes support her claims of over-assessment. The first property she listed serves as the basis for her claim the land is over-assessed. It is also in the flood plain, is located at 8212 NE 27th Avenue and has a 4.53 acre site. It is assessed at \$56,700. This site is 0.75 acres larger than Allbee’s site and is assessed for \$7000 less. This yields an assessed land value of \$0.287 per-square foot as compared to the subject’s assessed land value of \$0.386 per square foot. This information is very limited.

Review the record, we note the Board of Review appraiser analysis reports Allbee’s land value has a 20% correction. The residential cost report for the subject property shows:

<b>Land</b>	Square Feet = 165005, Acres = 3.788, Neighborhood = CY01, Pocket = B				
Residential Land	Square Feet = 165005, Nbhd = CY01, Pocket = B				50,695
Land Correction	Correction = 20, Location	50,695	*	1.2	60,834
Market Adjusted Land	Nbhd = CY01, Pocket = B, GeoBlock = 792229301	60,834	*	1.047	63,693

While the analysis suggests the property already has a 20% correction, this “correction” is an increase in value rather than a decrease. A review of this analysis indicates the land value “correction” using a multiplier of 1.20 increased the value 20%. There is no correction for the fact that this property is in a flood plain and receives substantial flooding. Allbee’s statements regarding this

are uncontroverted. We, therefore, determine a 20% correction should be made to the land value to reflect the flooding impact on the property. The total land value is \$50,960 ( $\$63,700 \times 0.80 = \$50,960$ ).

Regarding the dwelling's assessment, Allbee lists two properties for comparison. One property is located at 2622 NE 80th Street. It is a brick ranch with 788 more square feet than the subject and a 328 square foot larger attached garage. The assessed value of the residence is \$112,700 less than the subject dwelling. The other example used is located at 7890 NE 27th Avenue. Allbee contends the home is 224 square feet larger than hers and the attached garage is 100 square feet larger. Its dwelling appraised at \$317,200, as compared to the subject dwelling assessment of \$390,600. Because the evidence lacked information such as age, condition, quality and amenities of the compared dwellings for adjustment purposes, it is difficult to make meaningful comparisons between the subject dwelling and the comparable properties that could support Allbee's claim an over-assessed dwelling.

Reviewing all of the evidence, we find it supports Allbee's contention her property is assessed for more than authorized by law. The evidence suggests dwelling is correctly assessed and nothing supports Allbee's claim to the contrary; however, we find the land is over-assessed, and therefore the total assessment is for more than authorized by law. The assessor's cost report entries, while intending to apply a downward 20% location adjustment, applied a 20% upward adjustment in value. We, therefore, modify the January 1, 2009, assessment accordingly.

### *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). Viewing the evidence as a whole, we determine the preponderance of the evidence supports Allbee's claim of over-assessment as of January 1, 2009. The cost report shows the land was increased 20% and received no decrease "correction." Therefore, we modify the Allbee property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$441,560, representing \$50,960 in land value and \$390,600 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is modified to \$441,560, representing \$50,960 in land value and \$390,600 in improvement value.

Dated this 29 day of December 2010.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Member

Karen Oberman  
Karen Oberman, Board Chair

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AUDITOR

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>12-29</u> , 20 <u>10</u>	
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>[Handwritten Signature]</u>