

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Richard O. Parker,**  
  
Petitioner-Appellant,  
  
v.  
  
**Story County Board of Review,**  
  
Respondent-Appellee.

**ORDER**  
  
**Docket No. 09-85-0029**  
**Parcel No. 11-07-210-400**

On January 27, 2010, 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 Appellant, Richard O. Parker, requested a hearing and submitted evidence in support of his petition. He is self-represented. The Story County Board of Review designated County Attorney Stephen H. Holmes as its legal representative. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Richard Parker is the owner of a commercially classified property located at 1009 6th Street, Nevada, Iowa. The property consists of a 3360 square-foot site improved with a small retail store built in 1880. The store has 2948 total square feet of building area, which includes a full basement. The main level and basement are currently used as a law office, and the second floor features an apartment. The property has a January 1, 2009, assessment of \$73,800 representing \$13,400 in the land value and \$60,400 in the improvement value.

Parker protested to the Story County Board of Review regarding the 2009 assessment for this parcel. The protest was based on the following grounds: 1) The assessment is not equitable as compared with assessments of other like property in the taxing district under Iowa Code section

441.37(1)(a); 2) The property is assessed for more than the value authorized by law under section 441.37(1)(b); and 3) There is an error in the assessment under section 441.37(1)(d). The Board of Review denied the protest.

Parker then appealed to this Board, reasserting his original claims.

Parker asserted on both his petition and appeal forms the property had a total value of \$43,762, representing \$13,400 in land value and \$30,362 in improvement value. In his opening statement Parker indicated his belief that the property had a total fair market value of approximately \$60,000; but, he was requesting a value of \$43,762, based on equity.

Parker testified that he is a practicing attorney with thirty-five years experience, primarily dealing with real estate, probate, and trust matters. Based upon his profession and focus, he asserts that he is familiar with real estate values and activities, particularly on “main street” Nevada, Iowa.

Parker submitted six properties to the Board of Review, which he considered as equity comparables. Property record cards for each of these were included in the certified record. He submits the Kockler property as the most comparable, referencing the Board of Review’s Exhibit I.

Although he provided the assessed values for these properties, he fails to provide analysis of the fair market value of these properties. By failing to demonstrate the fair market value of the properties, Parker is unable to demonstrate that there is a difference in the assessed value to fair market value ratio. Parker does not claim that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties.

The Board of Review did not offer any properties for comparison regarding the claim of inequity. They did, however, supply Exhibit I, a spreadsheet of the properties submitted by Parker. The properties were adjusted to make them similar to the subject, and the Board claims that this chart “indicates that the assessed values of the comparables are equitable when comparing the comparables to the subject property.” The range of adjusted assessments for the six properties is \$68,500 to \$87,900

with an average of roughly \$77,500. Parker's property is assessed at \$73,800, which is below the average and at the lower end of the range.

Based upon the foregoing, the Appeal Board finds insufficient evidence has been submitted by either Parker to support a claim that the subject property is inequitably assessed.

Parker also asserts that his property is assessed for more than authorized by law. In his opening statement, Parker indicated it was his opinion the total fair market value of the property is \$60,000. He reiterated this position during his testimony and closing statements. However, he offers no evidence to support this opinion.

He also asserts that the subject property is in need of repair that he believes needs to be considered in the valuation. Parker testified that he received a bid for tuck pointing in the amount of \$17,899, and it is his belief that the market would consider this cost to cure in its entirety if the property were marketed for sale.

The Board of Review, with Parker's permission, completed an interior appraisal of the subject property dated October 7, 2009, and reflecting a value opinion effective January 1, 2009. The appraisal was completed by Keith Jones, with Valuation Services, Inc., and indicated a value opinion of \$84,000. Jones was not present at hearing.

When describing the site improvements, it is noted Jones considered the condition of the subject property, "as is." Jones reports that "the exterior brick walls show evidence of mortar deterioration above the newer decorative front and the owner reports that the second level of the north wall also needs tuck pointing." Jones also indicates that "blistering and peeling (sic) paint and cracked plaster is evidence of moisture penetration on the interior walls of the north side." Given these comments, it appears that Jones considered the existing deficiencies when valuing the property.

Jones developed the sales comparison and income approaches to value. He did not develop the cost approach citing age and depreciation as limiting the reliability of this method. Jones developed

the income approach; however, insufficient data of commercially leased property limited the reliability of this approach.

Jones' sales analysis has limited narrative and does not allow the reader to fully understand the rationale behind adjustments, specifically location, age/condition, and quality. Additionally, Jones fails to provide the reader with any market analysis of Nevada or surrounding competitive areas. It is unknown what Jones' opinion is regarding stability of the commercial market; the balance of supply and demand; or what the typical marketing time is for a similar style property. The only comment found regarding the market is in Jones' reconciliation which states that "no new construction can be expected in this market until the considerable build up of supply of existing facilities is absorbed." Jones further states that older sales (one to three years in sale date) were used due to the "fairly slow current market in this property type." Lastly, in reporting his final opinion of value, Jones indicates that a marketing time of one to two years was considered. This information is not revealed to the reader until the final reconciliation and it is unknown how, or whether, it was considered by the appraiser in the valuation process.

While Jones' appraisal offers only a brief presentation of pertinent data and limited analysis overall, it is the only evidence presented regarding the market value of the subject property. Because it is the sole piece of evidence presented regarding the ground of over-assessment, it is considered the most reliable, albeit reluctantly.

Based upon the foregoing, the Appeal Board finds that insufficient evidence has been submitted to support a claim that the subject property is assessed at greater than market value.

Finally, Parker asserts there is an error in the assessment. Specifically he had concerns with the valuation of the vault; understated and incorrect application of obsolescence; and failure to consider current economic conditions. Essentially, the bulk of Parkers asserted errors is based upon a presumption that the property is over-assessed; a claim we have already been addressed.

Parker points to the certified record and data he supplied to the Board of Review regarding the Nevada market in 2009. He supplied a report created by Hunziker and Associates, which he claims demonstrates a declining market and evidence of properties selling for less than their assessed value. The data presented is focused on residential properties, as Parker has a residential property appeal before this Board as well. No specific commercial evidence was presented, other than Parker's observations.

No evidence was presented by Parker that would support his claim that the vault was incorrectly valued or his belief of what the correct application of obsolescence should be.

Minimal evidence was presented by the Board of Review in regards to the claim of error. Brent Balduf, Story County Deputy Assessor, testified in regards to his familiarity with the subject property and the assessment. Balduf indicates that the income approach was not considered. There was minimal testimony regarding the cost approach to value or the application of obsolescence.

Based upon the foregoing, the Appeal Board finds that insufficient evidence has been submitted by Parker to establish there is an error in the assessment.

#### ***Conclusions 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 also 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 six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Parker did not assert that the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties. While Parker does assert the properties are inequitably assessed, he fails to provide evidence complete the Maxwell test. There is insufficient evidence to show inequity.

In an appeal that alleges the property is assessed for more than the value authorized by law under 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). Parker does not provide this Board with evidence that the current assessed valuation is more than authorized by law by failing to provide substantial evidence of its fair market value.

Section 441.37(1)(d), allows a protest on the ground “[t]hat there is an error in the assessment.” The administrative rule interpreting this section indicates that the error may be more than clerical or mathematical. Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). There is no evidence to show errors exist in the assessment of the property.

In the opinion of the Appeal Board, Parker did not show what the value should be, and the evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 1009 6<sup>th</sup> Street, Nevada, Iowa as determined by the Story County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Richard O. Parkers property, located at 1009 6<sup>th</sup> Street, Nevada, Iowa, as of January 1, 2009, set by the Story County Board of Review, is affirmed.

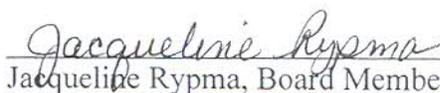
Dated this 1<sup>st</sup> day of March, 2010



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

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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>3-1</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><i>John [Signature]</i></u>