

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John & Paula Chew,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-91-0743
Parcel No. 48571020070

On October 15, 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. Petitioners-Appellants, John and Paula Chew, requested a hearing and submitted evidence in support of their petition. They were self-represented and did not appear for hearing. The Board of Review designated Assistant County Attorney John Criswell as its legal representative and was represented by County Assessor Bryan Arnold at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

John and Paula Chew, owners of property located at 1213 S. 3rd Street, Indianola, Iowa, appeal from the Warren County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a two-story dwelling built in 2003 having 1811 total square feet of living area and a full unfinished basement. It also has a 400 square-foot attached garage. The dwelling has a 3-10 quality grade, is in normal condition, and has been discounted 5% for functional obsolescence. It is situated on 0.166 acres.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$195,900, representing \$22,700 in land value and \$173,200 in dwelling value.

The Chews protested to the Board of Review on the ground the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a); the property is assessed for more than authorized by law under section 441.37(1)(b); there is an error in the assessment under section 441.37(1)(d); and there has been a downward change in value under sections 441.35 and 441.37(1). The error claimed is that the property is over-assessed given its location which backs up to highway 65/69. They requested a reduction in value to \$185,000, allocated \$22,700 to land value and \$162,300 to improvement value. The Board of Review denied the protest stating, "After consideration of all data presented to the Board of Review, assessment was unchanged as the data proved equitability when complete information was examined."

The Chews then filed their appeal with this Board based on the grounds of equity and error. Because the error they claim is essentially that the property is over-assessed, this Board will consider their equity and over-assessment claims only.

The Chews submitted five properties they considered comparable. The assessed values of these properties ranged from \$83.69 per square foot to \$106.78 per square foot. Considering only the two-story dwellings with the same grade as the subject property, the range of assessments is \$88.41 to \$102.16 per square foot. The subject property is assessed at \$95.64 per square foot which is well within both assessment ranges.

The Chews also offered five sales of property they considered comparable with unadjusted sale prices ranging from \$63.84 per square foot to \$96.51 per square foot. The lowest end of the range was the result of a sheriff's sale and excluding it the lowest per square foot sale price was \$88.28. The subject property is slightly over the upper end of the range. No adjustments were performed to account for differences between the comparable sales and the subject property. The Chews identified the property located at 407 E. 13th Street as most similar to the subject property in style, age, size, and grade it is assessed at \$200,800, almost \$5000 more than their property. Although it sold for \$145,800,

this was a distressed, sheriff's sale and not considered indicative of fair market value under Iowa statutes without adjustment.

The Board of Review offered six sales it considered comparable. These sales were two-story dwellings with unadjusted sale prices ranging from \$88.36 per square foot to \$108.05 per square foot. In addition to differences in square footage; the age, grade and site size of these properties also vary. Again, because no adjustments were made for differences between these dwellings and the subject property in either listing, it is difficult to determine if they are reasonably comparable to the subject dwelling.

Assessor Bryan Arnold testified at hearing that the subject property's assessed value per square foot falls well within the range of all normal transaction sales¹ presented by both parties combined. He reported the sales ratios for these sales fell between 93% and 108% indicating the sales prices and assessed values were somewhat closely aligned. The statute requires equalization for -5% to +5% sales ratio variances from 100%. Under that law, because neither end of the assessor's 93% to 108% sales ratio is within the acceptable percentages; the range would require equalization. §441.47. We also question whether the sales ratio was based on an adequate sample.

Arnold indicated two of the area subdivisions back up to highway 65/69 similar to the Chews' property and there is no evidence the sales prices of these properties are lower than others in the subdivision. He believes this is partly due to the buffer area between the developed lots and the highway, and because there is not a lot of highway traffic. Arnold also indicated the Chews' five-year tax abatement had expired which would result in an increase in taxable value and their accompanying property taxes.

¹ Arnold excluded the 407 E. 13th Street sale because it occurred under an abnormal sheriff's sale condition.

Viewing the record as a whole, we find the Chews failed to prove by a preponderance of the evidence their property assessment is not equitable compared to like properties in the taxing jurisdiction.

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).

To prove inequity, a taxpayer may show 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 gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Viewing the evidence as a whole, we determine the preponderance of the evidence does not support the Chews' claim of inequitable assessment as of January 1, 2009. Therefore, we affirm the property assessment as determined by the Board of Review of \$195,900, representing \$22,700 in land value and \$173,200 in dwelling value as of January 1, 2009.

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

Dated this 9 day of November 2010.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
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>11-9</u> , 201 <u>0</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>Jacqueline Rypma</u>