

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Walter L. McKee,
Petitioner-Appellants,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-101-0311
Parcel No. 14104-80006-01001

On April 25, 2011, 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, Walter McKee, was self-represented. The City of Cedar Rapids Board of Review designated Attorney James H. Flitz as its legal representative. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Walter L. McKee, owner of residential property located at 643 Tiffany Drive, NE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$200,324; representing \$14,000 in land value and \$186,324 in dwelling value. This was a change in value from the previous year's assessment.

McKee protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). The Board of Review reduced the assessed value to a total of \$196,000; representing \$14,000 in land value and \$182,000 in

dwelling value. The Board stated in part. "After consideration of all the data, the assessment was changed."

McKee then appealed to this Board. On our appeal form, McKee marked that his protest was based on equity. McKee also filled out and attached a new board of review form claiming equity and market value were the issues on appeal. McKee seeks \$23,015 in relief and value the property at \$172,985.

According to the property record card, the subject property consists of a one-story frame dwelling having 1591 square feet of total living area, full basement, 301 square feet of basement finish, and a 168 square-foot, one-story screened porch. The subject property is a two-unit, attached-style building. The dwelling was built in 1995 and has a 457 square foot 2-car attached garage.

McKee submitted twelve assessments as comparables: seven of them are located in Crystal Estates, the area of the subject property, and five are located in the NE quadrant of Cedar Rapids. McKee also submitted assessments for twenty units that are all located in Crystal Estates and are duplex-type units. Based on the total finished area of the comparables, he calculated an \$85.11 per square foot value. This would indicate an assessed value of \$161,029 for his property.

In rebuttal to the Board of Review's Exhibit C, McKee listed seven properties from page 3 that he calculated at a finish area per square foot of \$78.20, which indicates an assessed value for the subject property of \$147,954. McKee calculated from page 7 for five properties a \$91.09 per square foot value for a \$172,342 value for his property.

McKee believes the best comparable to his is 3116 Tiperary Drive, NE, that sold in 2008 for \$180,000. Based on his calculated value of \$107.57 per square foot, the subject property should have a value of \$171,144. McKee stated he paid \$162,450 in April 2006 and added 388 square feet of basement finish at a cost of \$14,000.

We note that although most of the equity comparables are similar in the Crystal Estates, the properties were not adjusted to the subject property to account for differences that may impact their values.

The Board of Review submitted five equity comparables. All five of the comparables are two-unit properties that share only one exterior sidewall with an adjoining unit. All five of the comparables are one-story frame dwellings with basement finish and have an attached garage. The five comparables are also located in the subject property's neighborhood. The median assessment for the comparables is \$126.92 per square foot. The subject property is assessed at \$123.19 per square foot. We find the five equity comparables submitted by the Board of Review are similar to the subject property.

McKee only commented on one sale of a comparable property. The sale occurred in 2008. Essentially, he submitted no information to support a market value claim.

The Board of Review submitted and commented on three market sales, all located in Crystal Estates. The sales occurred in mid-2009 and ranged in value per square foot from \$103.25 to \$116.74.

Reviewing all the evidence, we find the preponderance of evidence does not support McKee's contention that the subject property is not equitably assessed. McKee's comparables are not adjusted and, therefore, we are unable to draw any conclusions from them as to the equitability of McKee's assessment. Furthermore, the market value evidence is limited, and we cannot draw any conclusion from it. The best evidence in the record was the five equity comparables submitted by the Board of Review.

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. § 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 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).

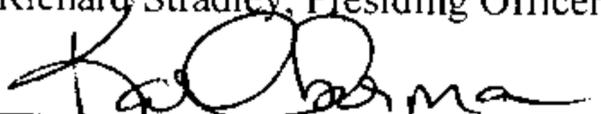
To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Striver*, 257 Iowa 575, 133 N.W.2d 709 (1965). 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). It is our conclusion that McKee failed to present persuasive evidence sufficient to support the claim that his assessment was inequitable as compared with assessments of other like property in the taxing district.

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). There is insufficient evidence in the record to support a claim that the property is over assessed.

Viewing the evidence as a whole, we determine that substantial evidence was lacking to support either of McKee's claims. Therefore, we affirm the property's assessed value as of January 1, 2010, is \$196,000.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 20 day of June 2011.


Richard Stradley, Presiding Officer

Karen Oberman, 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>6-20</u> , 2011	
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:	