

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

<p>James A. & Valmar D. Mientus, Petitioners-Appellants, v. City of Davenport Board of Review, Respondent-Appellee.</p>	<p>ORDER</p> <p>Docket No. 10-103-0715 Parcel No. O1651C03</p> <p>Docket No. 10-103-0716 Parcel No. O1651C04</p> <p>Docket No. 10-103-0717 Parcel No. O1651C05</p> <p>Docket No. 10-103-0718 Parcel No. O1651C06</p>
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On August 8, 2011, the above captioned appeals came on for consideration before the Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants James A. and Valmar D. Mientus were self-represented and requested the appeals proceed without hearing. The City of Davenport Board of Review designated City Attorney Tom Werner as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

James A. and Valmar D. Mientus are the owners of four commercially classified, unimproved lots located on Hillandale Road in Davenport, Iowa. The lot sizes and their legal descriptions are as follows:

Docket #	Parcel #	Legal Address	Site Size (Square Foot)
10-103-0715	O1651C03	Lot 23 Westgate 8th Addition	20,048
10-103-0716	O1651C04	Lot 21 Westgate 8th Addition	23,393
10-103-0717	O1651C05	Lot 19 Westgate 8th Addition	28,613
10-103-0718	O1651C06	Lot 18 Westgate 8th Addition	26,835

The January 1, 2010 assessments of all four lots increased from the previous year's assessment allowing all grounds for protest.

The Mientuses protested to the City of Davenport Board of Review regarding the 2010 assessment for each vacant lot as follows:

Docket #	Parcel #	Legal Address	2010 AV
10-103-0715	O1651C03	Lot 23 Westgate 8th Addition	\$6,200
10-103-0716	O1651C04	Lot 21 Westgate 8th Addition	\$6,900
10-103-0717	O1651C05	Lot 19 Westgate 8th Addition	\$8,000
10-103-0718	O1651C06	Lot 18 Westgate 8th Addition	\$7,600

The Mientuses did not assert what they believe the correct value of each parcel should be. Their claims were based on the following grounds: 1) that the assessment was not equitable compared with the assessments of other like property under Iowa Code section 441.37(1)(a) and 2) that there is an error in the assessment under section 441.37(1)(c). They allege the error in the assessment is that "values have declined." In a reassessment year this is essentially a claim that the property was assessed for more than the value authorized by law under section 441.37(1)(b).

The Board of Review denied all four of the protests.

The Mientuses then appealed to this Board reasserting their claims of inequity and over-assessment.

The Mientuses provided a letter dated July 19, 2010, which essentially referenced their original appeal letter to the Board of Review. The appeal letter does not provide any properties for comparison for either an equity or market analysis. The letter is broken down into four main points.

Point 1 discusses James Mientuses' position as a board member for the Community Resources Corporation and its ties to "the old Quality Inn on 6th." There is no comparison made between this property and the Mientuses four vacant lots, but rather it is reported as having sold for less than what it was appraised for. The date of the appraisal and the date of sale are not provided. We do not consider

this information relevant as it may be assumed to be improved with a motel or hotel and not comparable to the subject vacant sites.

Point 2 references “Rosebud LLC” of which Mientus was a partner in at some point. He states that Rosebud owned “several acres of undeveloped land on West Kimberly Road.” There is no information provided to conclude that this undeveloped land is similar in location, topography, or utility to the subject sites. He notes that “a few years ago” it was listed for \$145,000 then ultimately gifted to the City. After the land was gifted it was appraised for \$50,000; however the effective date of the appraisal is unknown and there is no information to indicate this land is similarly situated or comparable to the subject properties. Again, we find this information incomplete and not relevant as there was no comparison made to the subject sites.

Point 3 notes the Mientuses purchased the first lot which is the subject of this appeal (the specific lot or parcel number is not identified) for \$30,000 in roughly 1980-1982. The remaining three lots were purchased from “the FDIC through a sealed bid auction for a total price of \$5,555.55 about 10 years ago.” They note the lots have been for sale “before this current recession” two times with no offers. The Mientuses did not provide the listing dates or list prices, and did not explain how the sites were marketed. We note that while the sales price of a property in a normal transaction may be an indicator of market value, it does not conclusively establish that value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). However, the Mientuses purchased the sites anywhere from roughly ten to thirty years ago. We do not consider these sales to represent current fair market value.

Lastly, in Point 4, the Mientuses state they “also own a four-plex and six-plex, which are also included in our appeal.” We note that these unidentified properties are not a part of these appeals. They report that one of these properties was built in 1966 and the other in 1976. No other information is given. We do not consider this information relevant to the assessments of the vacant lots.

The Board of Review did not offer any evidence.

Based on the foregoing, we find insufficient evidence has been presented to demonstrate the subject is either inequitably assessed or assessed for more than authorized by law.

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 (2011). 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).

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). The Mientuses did not provide any information to support an equity claim.

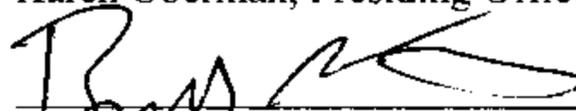
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Mientuses did not provide any information to support a market value claim.

THE APPEAL BOARD ORDERS the January 1, 2010, assessments of James A. and Velmar D. Mientuses four vacant parcels located in Davenport, Iowa, as set by the City of Davenport Board of Review, are affirmed.

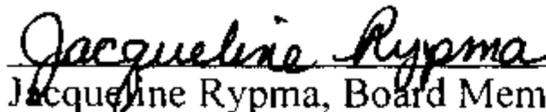
Dated this 30 day of August, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

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APPELLANTS

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ATTORNEY FOR APPELLEE

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>8-30</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 checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	