

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

**IN THE MATTER OF
Dmitry Yarushkin & Yang Yang,
Petitioners-Appellants,**

v.

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

ORDER

**Docket No. 10-25-0609
Parcel No. 16-12-480-072**

On May 18, 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. Petitioners-Appellants, Dmitry Yarushkin and Yang Yang, were self-represented and submitted evidence in support of their petition. The Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. County Assessor Steve Helm appeared on behalf of the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Dmitry Yarushkin and Yang Yang, owners of property located at 6255 Beechtree Drive, #3308, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. The real estate was classified residential for January 1, 2010, assessment and valued at \$102,330, representing \$22,000 in land value and \$80,330 in dwelling value. This was a change from the previous year's assessment, which was set by this Board.

Yarushkin and Yang protested to the Board of Review that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b); and on the ground that there has been a downward trend in value under Iowa Code section 441.37(1) and 441.35(3). We note that in a

reassessment year the claim of downward change in value is akin to a market value claim. *See Dedham Coop. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006) (unpublished). In response to the protest, the Board of Review notified Yarushkin and Yang the January 1, 2010, assessment would not change stating, "Failed to substantiate burden of proof."

Yarushkin and Yang then appealed to this Board on the same grounds. Yarushkin and Yang valued the property at \$96,336. They seek \$5994 in relief.

In their appeals to both Boards, Yarushkin and Yang state on the appeal form "see attached." We note that the Board of Review form in the certified record has only the grounds that the property is over-assessed and downward trend. The other petition form to this Board included the ground of error. Reviewing the grounds appealed to both Boards, it is clear that the gist of the appellants' claim is that the property is assessed for more than authorized by law, and it is the only ground we will consider.

According to the property record card, the subject property was build in 2005 and consists of a one-story condominium having 1088 square feet of living area and a 264 square-foot, detached garage. The improvements have a grade classification of 3-5. The property is located in a subdivision known as Bella Centro Condominiums.

Yarushkin testified that when he purchased the condominium, he was informed the association owned the clubhouse, pool, and exercise facility. Subsequently, when the management company changed, Bella Centro residents lost the use of these facilities. Bella Centro now has only limited use of the facilities. He also testified that there is a legal issue pending against the builder and special assessment charges are estimated between \$3000 to \$5000 per unit.

Yarushkin submitted a table listing five comparable properties in Bella Centro that he considered "normal" sales. These five sales occurred between July 1, 2009, and November 22, 2009. He stated that none of the sales were part of a foreclosure proceedings or occurred under any kind of duress. The sale prices ranged from \$92,500 to \$107,500. We do note the assessment is within the

range of sale prices. However, the sale most comparable to the subject property in square footage sold for \$92,500, which is at the bottom of the range. Yarushkin testified that he used the sales in only Bella Centro because they are very comparable. Yarushkin made reasonable adjustments to the sales prices for differences in appliances, floor coverings, vaulted ceilings, additional bedrooms, and square feet to arrive at his estimated value of \$96,336. He based his adjustments on the amount the builders cost to customize the units when purchased. The sale most comparable to the subject property is 43 square-feet smaller than the subject property, therefore, we find Yarushkin's \$96,336 estimate to be realistic and between the range of comparable properties that sold in the condominium complex.

The Board of Review did not testify or submit evidence at the hearing. The Board relied on the certified record.

Reviewing all the evidence, we find that the appellants have met the burden to prove that their property is over-assessed. The fair market value of the subject property is \$96,336, representing \$22,000 in land value and \$74,336 in dwelling value.

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).

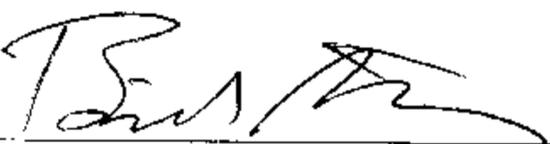
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are 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).

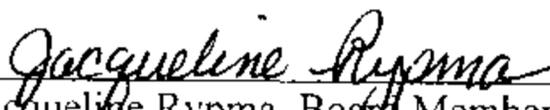
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The appellants have proved that the property is over-assessed based on comparable sales. We, therefore, modify the Yarushkin and Yang property assessment as determined by the Board of Review.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Dallas County Board of Review is modified to \$96,336, representing \$22,000 in land value and \$74,336 in dwelling value.

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Dallas County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 28 day of June 2011.


Richard Stradley, Presiding Officer

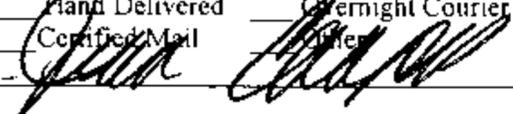

Jacqueline Rypma, Board Member

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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>6-28</u> , 201 <u>1</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></u>