

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Shirley A. Haag,
Petitioner-Appellant,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-25-0707
Parcel No. 12-35-223-001

On June 23, 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. Petitioner-Appellant Shirley A. Haag requested a hearing. Realtor Elaine Miller of Re/Max Real Estate Group, Windsor Heights, Iowa, was designated as her legal representative and represented her at hearing. The Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. It was represented by Assessor Steve Helm at hearing. Haag submitted evidence in support of her position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Shirley A. Haag, owner of property located at 1655 Holiday Crest Circle, Waukee, Iowa, appeals from the Dallas County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story townhouse having 1724 square feet of main living area, as well as, a full basement with 1040 square feet of finish. It also has a 484 square-foot attached garage, a 128 square-foot open porch and a 128 square-foot screened porch. The improvements were built in 2005. The dwelling has a 3+5 quality grade classification and is in normal condition. The improvements are situated in a retirement community subdivision known as Townhomes at Legacy Pointe. The property record card did not have site information.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$308,670, representing \$65,000 in land value and \$243,670 in improvement value.

Haag protested to the Board of Review on the grounds the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b) and that there has been a downward change in value under sections 441.37(1) and 441.35(3).

The Board of Review denied the protest stating, the appellant "Failed to prove downward change in value. No jurisdiction on other grounds."

Haag then filed her appeal with this Board and urged the same grounds. She also added the that there was an error in the assessment under section 441.37(1)(d).

The ground of error was not plead to the Board of Review, and we will not consider that ground. Additionally, because the 2010 assessed value was the same as the 2009 value, it is an interim year and change in value since the last reassessment is the only available protest ground for us to consider.

Haag claims \$250,000; allocated \$25,000 to land value and \$225,000 to dwelling value is the actual value and fair assessment of the subject property. She purchased the property in June 2009 for \$250,000. She reports the sale price of the lot for two units was \$50,000 or \$25,000 each. Haag believes her land value should be \$25,000, not \$65,000.

Elaine Miller testified on behalf of Haag that the purchase was not a foreclosure and was a normal transaction between private individuals. This evidence was un-refuted. The property was originally listed for sale at \$325,000, and the price was lowered over time. The property was on the Multiple Listing Service for 359 days before it sold. The townhome needed painting and carpeting at the time of sale. The transaction was a cash sale, and therefore, no appraisal was done. Miller testified that in her opinion the land value is twice the amount that similar lots are selling for, and she has not

received an explanation on how they are assessed from the Board of Review other than “that is the way we always have done it.”

In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined that, “It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.”

Haag also submitted information on three other townhouses to support her claim of a change in value. Two of the properties are located in Polk County, and one is located in Dallas County. She compared the 2010 assessed value of the properties to the listing price of each townhouse. Because the listing prices are lower than the assessments, Haag attributes the discrepancy to a downward change in the market value of her property. Although an assessment should reflect a property’s market value, a change in value cannot be established by comparing an assessed value to a sales or listing value.¹ Additionally, assessments from in two different assessing jurisdictions are not comparable. *Maytag Co. v. Partridge*, 210 N.W.2d 584, 594-595 (Iowa 1973).

Miller testified regarding a property located at 1560 Golden Harvest also in the Legacy Pointe Retirement Community, which was not in the Board of Review record. According to Miller, the property has the same square feet and floor plan as the subject property. It was originally listed for sale at \$325,000, the price was reduced, and the townhome finally sold in January 2010 for \$243,000. The property was sold by a lending institution, which received the property in lieu of foreclosure, suggesting an abnormal sale condition. We are mindful of the fact that foreclosure sales are not considered normal transactions and require either exclusion or adequate adjustments to be used as comparative sales. See Iowa Code §441.21(1)(b). From the record, we are unable to determine

¹ Over-assessment in a reassessment year can be established by showing the assessed value exceeds the property’s fair market value.

whether adjustments to the sale of the Golden Harvest property were necessary to make it an arms's length transaction.

According to Miller, an experienced realtor for thirty-five years, the townhouse market has declined, lenders have tightened financing requirements, and townhomes in retirement communities are not selling. She reported evidence of a market decline in the values and number of sales at the Villas at Woodlands Creek and the Deerfield Retirement Community in Clive, similar to the Legacy Pointe Retirement Community decline. She indicated new properties are not selling, marketing times are prolonged, and foreclosure sales are common. Miller also reported, in her experience, foreclosure properties are now selling the same as the regular market properties and appraisers are using foreclosed property sales as comparables in their appraisals.

Miller provided credible evidence that the retirement community townhome market in the subject property's area generally has declined. She did provide the June 2009, \$250,000 purchase price of the subject property compared to a January 2010, \$243,000 sale of a comparable townhouse of the same square feet, floor plan, and retirement community. However, proof specifically of the subject property's actual market value on January 1, 2009, as compared to its January 1, 2010, value is necessary to show a change in value. Although the record suggest Haag's property might be over-assessed if this were a regular assessment year, the evidence does not demonstrate there has been a downward change in her property's value since the last reassessment necessary to prevail in an interim year. We recommend the assessor review this property and its assessment given the evidence suggesting over-assessment.

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).

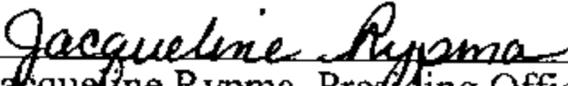
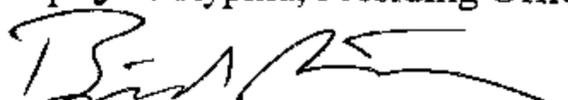
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or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

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

We find a preponderance of the evidence does not prove there has been a change in the value of Haag's property since the last reassessment.

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

Dated this 10 day of August 2011.


Jacqueline Rypma, Presiding Officer

Richard Stradley, 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>8-10</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
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