

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Sharilyn Leonard,
Petitioner-Appellant,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-25-0708

Parcel No. 12-35-218-001

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 Sharilyn Leonard 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 Dallas County Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. It was represented by Assessor Steve Helm at hearing. Leonard 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

Sharilyn Leonard, owner of property located at 150 SE Legacy Pointe Boulevard., 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 1385 square feet of living area. The property has no basement. The property was built in 2006 and has a 528 square-foot attached garage. The dwelling has a 3-5 quality grade factor and is in normal condition. The subject property is situated in a retirement community subdivision known as Townhomes of Legacy Pointe.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$185,970; representing \$65,000 in land value and \$120,970 in improvement value. Leonard protested to the Board of Review on the ground the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that there was a change in value since the last reassessment under sections 441.37(1) and 441.35(3). The Board of Review denied the protest stating, "Failed to prove downward change in value. No jurisdiction on other grounds."

Leonard filed her appeal with this Board and urged the grounds of downward change in value, and that there was an error in the assessment under section 441.37(1)(d). The ground of error was not pled 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.

Leonard claims \$148,000; allocated \$25,000 to land value and \$123,000 to dwelling value is the actual value and fair assessment of the subject property. She purchased the property in August, 2009 for \$148,000. She reports that the sale price of the lot for two units was \$50,000 or \$25,000 each. Leonard believes her land value should be \$25,000, not \$65,000.

Elaine Miller testified on behalf of Leonard that the purchase was from a bank. However, the subject property was listed for sale on the multiple listing service and the property was purchased as new. 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 comparable sales. See Iowa Code § 441.21(1)(b).

According to Miller, an experienced realtor for thirty-five years, the townhomes in retirement communities 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 regular market properties and appraisers are using foreclosed property sales as comparables in their appraisals.

Leonard submitted information on two townhouses to establish a change in value. However, both of the properties are located in Polk County. She compared the 2010 assessment value to the listing price of each to demonstrate the difference. Because the listing prices are lower than the assessment, Leonard attributes the discrepancy to a downward change in market value. A change in value cannot be established in comparing an assessed value to a sale or listing price. Additionally, while sales from different assessment jurisdictions can be comparable to show fair market value, assessments from different jurisdictions are not comparable.

Miller testified a marginal concern was the Board of Review could not tell her why the lot was assessed at \$65,000 when they were purchased at \$25,000 each. She stated the response was, "That's the way we always have done it."

Miller provided credible evidence that the retirement community townhome market in the subject property's area is generally declining. She did provide the foreclosure sale of the subject property and information regarding the acceptance of the offer to purchase the subject property for \$148,000. However, because the property's sale was the result of a foreclosure, that factor may require adjustments to make it an arm's-length transaction. Further, proof of the subject property's actual market value on January 1, 2009, as compared to January 1, 2010, value is necessary to show a change in value. Although the evidence may suggest Leonard's property could be over-assessed if this were a regular assessment year, it does not demonstrate there has been a downward change in her property's value since the last assessment necessary to prevail in an interim year.

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).

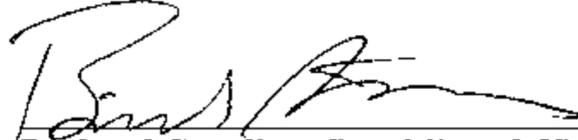
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property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

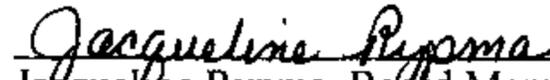
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last unnumbered 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 value of Leonard's property since the last assessment.

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.


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>8-10</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	