

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

---

**Judy Virginia Lauterbach,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 10-50-0085**  
**Parcel No. 08.35.207.007**

---

On May 6, 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 Judy Virginia Lauterbach requested a hearing and submitted evidence in support of her petition. She was represented at hearing by attorney Ken J. Smith of Newton. The Board of Review designated County Attorney Michael K. Jacobsen as its legal representative, and he represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Judy Virginia Lauterbach, owner of property located at 1901 1st Avenue E, Newton, Iowa, appeals from the Jasper County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story, automobile showroom, sales and service building having a 3150 square-foot base in normal condition, built in 1962, and graded 4+5. It is adjusted 60% for physical depreciation, 10% for functional obsolescence, 10% for economic obsolescence, and 10% for other obsolescence. The building has a 12,132 square foot base addition, in normal condition, built in 1962, and graded 4+0. It is adjusted 60% for physical depreciation, 10% for functional obsolescence, 10% for economic obsolescence, and 20% for other obsolescence. A second

addition built in 1970 is 1056 square feet and has a 5+10 grade. It is adjusted 60% for physical depreciation and has no other adjustments. The property is improved by 5000 square feet of concrete paving built in 1962 with 30% physical depreciation, 10% functional obsolescence, and 5% other obsolescence. The parcel is also improved by 15,400 square feet of asphalt paving built in 1994 with 15% functional obsolescence and 5% other obsolescence. The improvements are situated on a 1.636 acre site.

The real estate was classified as commercial on the initial assessment of January 1, 2010, and valued at \$335,450, representing \$110,400 in land value and \$225,050 in improvement value. Although the total value of the property was unchanged from the 2009 assessment, the allocation between land and improvement value did change in 2010.

Lauterbach protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that there had been a change in value since the last reassessment year under section 441.37(1) and section 441.35. The Board denied the claim.

Lauterbach then filed her appeal with this Board asserting the same grounds and an additional equity claim under section 441.37(1)(a). In a reassessment year, the ground of change in value is akin to a claim that the property is assessed for more than authorized by law under section 441.37(1)(b). Additionally, because Lauterbach did not plead the ground of equity to the Board of Review we do not consider it and only consider the claim of over-assessment.

Dean Lauterbach testified on behalf of the Appellant that his father purchased the property in 1981 and opened a car dealership, which has been operated for three generations. He reported the building was originally a grocery store in Des Moines that was moved to Newton in 1962. Lauterbach indicated the building only has twelve-foot high doors and cannot accommodate semi-trucks. The small lot size makes snow removal difficult and parking restricted. It has a limited parts area, an older

paint room, and no conference room. These are features which more modern car dealerships typically have. Lauterbach testified numerous car dealership and auto service/parts shops were formerly located on 1st Avenue E (Highway 6) and have moved closer to Interstate 80. He also reports many vacant commercial buildings and declining economic conditions in this area.

Lauterbach compared the subject property assessment to the former Maples Chevy Dealership assessment. He reported Maples has a larger building and larger lot yet has a lower assessment of \$197,000 as compared to the Lauterbach assessment of \$335,450. At the request of this Board, the assessor provided a copy of the Maples' property record card. According to the property record card the building and additions have 25,324 square feet on a 6.95 acres site. The 2009 assessment of \$353,630 was reduced in 2010 to \$197,230. This was approximately a 44% reduction.

The following chart compares the land unit pricing for Lauterbach and Maples:

<b>Lauterbach</b>							
	Land Quality	Acres	Unit Price	Total	Adjustments	Adjustments	Land Values
	C-22	1.000	\$79,500	\$79,500	(\$2,810)		\$76,690
	C-20	0.636	\$53,000	\$33,708			\$33,710
Totals		1.636	\$113,208				\$110,400
<b>Maples</b>							
	Land Quality	Acres	Unit Price	Total	Adjustments	Adjustments	Land Values
	C-22	1.000	\$79,500	\$79,500	(\$2,750)	-40%	\$50,450
	C-17	1.000	\$37,100	\$37,100		-40%	\$22,260
	C-11	4.950	\$15,900	\$78,705			\$78,710
Totals		6.950					\$151,420

As is evident from reviewing this information, there are significant differences in the land quality, unit pricing and adjustments applied to the two properties. While both have one acre priced at \$79,500, the remainder of Maples' land is assessed at a lower unit price and given larger adjustments than Lauterbach's.

Similarly, differences are apparent between the condition, grade, and adjustments applied to the Lauterbach's and the Maples' improvements, as shown in the following chart:

	<b>Maples</b>	<b>Lauterbach</b>
<b>Buildings</b>		
Condition	Very Poor	Normal
Grade	4+0	4+5
Functional Obsolescence	70%	10%
Economic Obsolescence	80%	10%
Other Obsolescence	80%	10%
Physical Depreciation	75%	60%
<b>Asphalt Paving</b>		
Unit Price Per Square Foot	\$2.00	\$2.00
Functional Obsolescence	20%	15%
Economic Obsolescence		
Other Obsolescence	25%	5%
Physical Depreciation	50%	15%
<b>Concrete Paving</b>		
Unit Price Per Square Foot		\$3.00
Functional Obsolescence		10%
Economic Obsolescence		
Other Obsolescence		5%
Physical Depreciation		30%

Assessor John Deegan testified on behalf of the Board of Review. He reported the property was assessed by using the *Iowa Department of Revenue Real Property Appraisal Manual*, which uses a cost approach to valuation as required by the Iowa Code. Deegan does not use the income method and reported no sales of new or used car dealerships in the county. He confirmed the significant number of vacant commercial properties and economic decline on 1st Avenue E in the past five years.

Deegan explained the Maples' property was valued similar to Lauterbach's property; however, it has been vacant for five years<sup>1</sup> and has been given an obsolescence discount because of the extended vacancy period. This accounts for the greater adjustments made to Maples' land and improvement values as compared to Lauterbach's land and improvement values, which results in the valuation

<sup>1</sup> Attorney Ken Smith, in a professional statement, reported the property is, in fact, used for RV, boat and lumber storage.

discrepancy. Deegan testified he generally gives a 30% obsolescence discount for properties empty for a year or more. Maples' land value is adjusted approximately 40% and its buildings are adjusted 70% to 80%.

The evidence indicates a pattern of rising commercial vacancy and economic decline in the vicinity of the subject property. Testimony demonstrates a trend of auto dealerships and related services relocating nearer the Interstate. The assessor applied obsolescence adjustments to recognize these factors in his valuation method. The fact that the Maples' property was in very poor condition and vacant for over five years as of January 1, 2010, while Lauterbach's operated an ongoing business, accounts for the significant discrepancies in their assessed values.

While Lauterbach's evidence would be more applicable to an equity claim; the fact that Maples has a lower assessed value does not prove Lauterbach's property is over-assessed. Additionally, other than Lauterbach's own opinion of value, no evidence was offered to prove the fair market value of the subject property. Reviewing the record as a whole, we find Lauterbach failed to prove by a preponderance of the evidence the property is assessed for more than authorized by law or the correct value of the property as of January 1, 2010.

### *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).

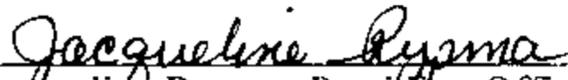
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or 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 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). While Lauterbach presented evidence of rising commercial vacancy and economic decline in the vicinity of the subject property, she did not prove the assessment was excessive nor did she provide evidence sufficient to support her estimate of its fair market value. Viewing the record as a whole, we determine the preponderance of the evidence does not support Lauterbach's claim of over-assessment.

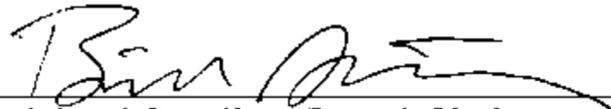
Therefore, we affirm the Lauterbach property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$335,450, representing \$110,400 in land value and \$225,050 in improvement value.

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

Dated this 28 day of June 2011.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Member

  
Richard Stradley, Board Chair

Copies to:  
Ken J. Smith  
101 First Avenue W  
Newton, IA 50208  
ATTORNEY FOR APPELLANT

Michael K. Jacobsen  
Jasper County Attorney  
114 West 3 rd Street N  
Newton, IA 50208  
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>6-28</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	