

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James & Mandi Irlbeck,

Petitioners-Appellants,

v.

Pottawattamie County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 10-78-0370

Parcel No. 043 065 146 773909 129 009

On May 25, 2011, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants James and Mandi Irlbeck were self-represented and requested a written consideration. The Pottawattamie County Board of Review designated Assistant County Attorney Leanne Gifford as its legal representative. The Appeal Board having reviewed the record, and being fully advised, finds:

Findings of Fact

James and Mandi Irlbeck are the owners of a residentially classified, single-family residence located at 102 W Wood Street, Avoca, Iowa. The property is a one-story home, built in 1979, and has 1320 square-feet of total above-grade living area. The property has a full basement with 850 square feet of finish. There is also a 576 square-foot, two-car attached garage, and a 144 square-foot concrete patio. The site is 1.57 acres.

The Irlbecks protested to the Pottawattamie County Board of Review regarding the January 1, 2010, assessment of \$170,000, allocated as \$35,600 in land value and \$134,400 in improvement value.

The January 1, 2010, assessment of the Irlbeck's property did not change from the prior year's assessment.

The Irlbeck's petition to the Board of Review was on the following grounds: 1) that the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than authorized by law under section 441.37(1)(b); 3) that there is an error in the assessment under section 441.37(1)(c); and, 4) that there has been a change in value since the last assessment under sections 441.37(1) and 441.35. The Irlbecks asserted the correct total value is \$138,590. They claim the "assessor's office did not use a formula to calculate the value; they based their assessment off the price that the property was listed for sale." The Irlbecks did not request a hearing with the Board of Review.

After consideration of all the data, the Board of Review denied the protest stating that the first three grounds pled by the Irlbecks were not applicable. Regarding the ground of change in value, the Board of Review stated that "the protester failed to prove the actual value of the property at the time it was last listed and valued by the Assessor, therefore the protester has not proven a change in value."

The Irlbecks appealed and reasserted all of their claims to this Board.

Because there was no change in value from the previous year, the only ground we will consider on appeal is whether there has been a change in value since the last reassessment, as it is the only ground appropriately pled in an "interim year" when the assessor has not changed the assessment.

The Irlbecks included an appraisal with their appeal. The appraisal was completed by Marilyn Boustead of Woodbine, Iowa. The appraisal is reportedly "to offer a current opinion of the estimated market value of the subject property as of March, 19, 2010. The function of the appraisal is to assist the client in a review of the current Pottawattamie County tax assessment." We note that while the effective date of the report, March 19, 2010 does not reflect the assessment date, it is within a few months and all of the comparables used pre-date the January 1, 2010, assessment date.

Boustead did not develop the income approach even though the subject property is currently rented. She explained this was due to a lack of rental comparables and sales in the immediate area. She did develop the cost and sales comparison approaches to value. Both approaches resulted in a value opinion of \$155,000.

Boustead considered six sales. Four were located nearby (all less than 0.33 miles) in Avoca; while two were located roughly twelve miles away in the nearby community of Harlan. Five of the comparables sold between March and September of 2009. The sixth sale sold in November of 2007. We give the 2007 sale limited consideration for a January 1, 2010, value opinion.

The five sales that sold in 2009 had an unadjusted range of value from roughly \$117,000 to \$160,000. After adjustments for such things as site size, age/condition, living area and other amenities, the adjusted range of value for these sales is \$128,800 to \$162,900.

Boustead also has a spreadsheet of the six comparables and a detailed addendum page analyzing median assessed values of these properties compared to the subject. Ultimately, this information is irrelevant for a claim in change in value because it does not compare the 2009 and 2010 market values.

The Board of Review did not offer any evidence.

While the Irlbecks offer support for the January 1, 2010, market value of the property they fail to provide evidence in support of a January 1, 2009, market value. Both values are necessary to establish a change in value since the last assessment.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of downward change in value.

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 (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).

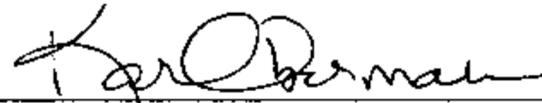
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or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

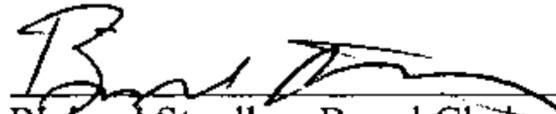
and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Irlbeck did not provide sufficient evidence supporting the January 1, 2009, market value even though they established a January 1, 2010, market value. Both values are required to support a claim of change in value.

THE APPEAL BOARD ORDERS the assessment of James and Mandi Irlbeck's property located at 102 W Wood Street, Avoca, Iowa, of \$170,000 as of January 1, 2010, set by the Pottawattamie County Board of Review, is affirmed.

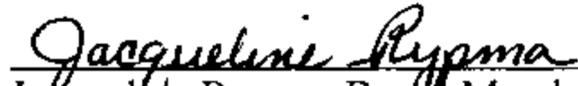
Dated this 8 day of June, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

James and Mandi Irlbeck
Box 202
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APPELLANT

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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>6-8</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	