

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Brad P. & Catherine C. Walz
Petitioners-Appellants,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-07-1496
Parcel No. 8913-34-455-008

On April 15, 2013, the above captioned appeal came on for telephone hearing 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 Brad P. and Catherine C. Walz were self-represented. Assistant County Attorney David J. Mason is counsel for the Black Hawk County Board of Review. Deputy Assessor T. J. Koenigsfeld represented the Board of Review at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Brad and Catherine Walz are the owners of a residential, single-family dwelling located at 176 Hillcrest Road, Waterloo, Iowa. According to the property record card, the property is a single-story home built in 1957 with 1966 square feet of above grade living area and a full basement with 400 square feet of finish. The property is also improved by a 720 square-foot attached garage and a 560 square-foot concrete patio. The property is reported as being of good quality grade (3+5) and in normal condition. The site is 0.344 acres.

The Walzes protested to the Board of Review regarding the 2011 assessment of \$215,160, allocated as \$33,150 in land value and \$182,010 in improvement value. Their claim was based on the grounds that 1) the assessment was not equitable as compared with the assessments of other like

property under Iowa Code section 441.37(1)(a)(1); 2) the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2) asserting the correct value was \$149,000; and, 3) there is an error in the assessment under section 441.37(1)(a)(4) essentially asserting that there has been a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). The Board of Review agreed, in part, and reduced the assessment to \$191,500.

The Walzes then appealed to this Board re-asserting their claims of equity and over-assessment and maintain the correct value is \$149,000.

In their petition to the Board of Review, the Walzes submitted a list of five properties they considered comparable for an equity analysis and provided the property record card for each property. However, none of the properties were recent sales. No market values were established to develop an equity analysis. There is not enough evidence in the record to establish the fair market values of these properties. For these reasons we give this evidence little consideration.

Walzes also submitted listing agreements and rental information. The listing agreement shows the subject property was listed for \$159,900 in 2009 and \$154,900 in 2010, but the property has not sold. They also provided rental agreements indicating the \$1100 monthly rent in 2009 was reduced to \$850 in 2010. Lastly, they provided their 2009 and 2010 income tax Schedule E forms to show the rental of the subject property was not generating a profit; however, an income approach to value was not developed.

Brad Walz testified the subject property is located next to a busy, four-lane road, which he asserts has a negative impact on the value of the property. Additionally, he reported there was water in the basement, the roof needed repairs, and the interior was dated. In Walz' opinion, the assessment should be lowered because of these factors.

Additionally, the Walzes submitted an appraisal completed by Daniel M. Warner of Real Estate Research Corporation, Waverly, Iowa. The effective date of the appraisal was August 14, 2006. As such, we do not find it useful in determining the January 1, 2011, market value for the subject property and give it no consideration.

Deputy Assessor T. J. Koenigsfeld testified his office did a complete revaluation on all classes of property for the 2011 assessment year and in the process removed the previous actions of the Board of Review. Additionally, the county switched to the new version of the IOWA REAL PROPERTY APPRAISAL MANUAL issued by the Department of Revenue. These combined actions accounted for the increase in the subject property's assessment. . He further testified that he reviewed the properties the Walzes identified as comparable. He noted these properties were in a different map area than the subject property and that the Walzes' property was larger than any of the properties they offered as comparable. Finally, Koenigsfeld submitted a spreadsheet of seven sales, in the same map area, identified by the Assessor's Office. The sales were adjusted based on the 2008 IOWA REAL PROPERTY APPRAISAL MANUAL. We are hesitant to place too much reliance on this analysis however, because of some of the resulting cost adjustments; for example, Comparable 2 located at 437 Ivanhoe Road, has a \$1050 adjustment for featuring an 18 square-foot porch. We do not believe the market would recognize this minor difference between the properties.

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. This Board is an agency and the provisions of the Administrative Procedure Act apply. 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, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). 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 the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

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. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this

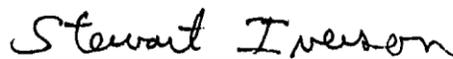
actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Walzes did not supply any evidence that the assessor applied an assessment method in a non-uniform manner to the subject property. Additionally, they did not provide evidence of the comparables' actual values, as shown by an appraisal or sales, for comparison with their assessed values. This evidence is required in order to conduct a sale-ratio analysis under *Maxwell*. For these reasons, we find the Walzes have failed to meet the evidentiary burden to succeed on their equity claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Walzes provided evidence they assert indicates a decrease in the property's value; however, they have failed to provide sufficient evidence establishing the subject property's correct value as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Brad and Catherine Walzes' property located at 176 Hillcrest Road, Waterloo, Iowa, of \$191,500 as of January 1, 2011, by the Black Hawk County Board of Review is affirmed.

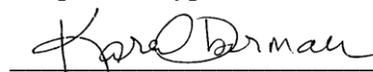
Dated this 21st day of May 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, 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>May 21, 2013</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	_____