

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Lester & Carole Van Brocklin,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-07-1506
Parcel No. 8812-03-227-001

On October 3, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Lester and Carole Van Brocklin, were self-represented. Assistant County Attorney David J. Mason represented the Black Hawk County Board of Review. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Lester and Carole Van Brocklin, owners of residential property located at 6602 Lafayette Road, Raymond, Iowa, appeal from the Black Hawk County Board of Review decision regarding their 2011 property assessment. The January 1, 2011, was \$190,010, and is allocated as \$15,840 in land value and \$174,170 in building value.

Van Brocklins protested to the Board of Review on the grounds that the property was not equitably assessed as compared with the assessment of other like property under Iowa Code section 441.37(1)(a)(1), that the property was assessed for more than authorized by law under section 441.37(1)(a)(2), and that there had been a downward change in value since the last assessment under sections 441.37(2) and 441.35. Van Brocklins' claim of downward change in value in a reassessment year,

however, is akin to a market value claim. *See Dedham Coop. Ass'n v. Carroll County Bd. of Review*, No. 05-1422, 2006 WL 1750300 (Iowa Ct. App. June 28, 2006) (unpublished). Van Brocklins asserted the property's correct value was \$145,840. The Board of Review denied the protest.

Van Brocklins then appealed to this Board reasserting the same claims. Van Brocklins now believe the correct assessed value is \$151,840, according to Carole Van Brocklin's testimony at hearing.

The subject property is a one-story, frame dwelling built in 1991, with 1782 square feet of living area. The main living area has 1418 square feet. The property is above average quality construction (3-5) and is in normal condition. The property has a 576 square-foot, detached garage. The site consists of 0.248 acres.

Carole Van Brocklin testified at hearing. Carole stated the market has decreased in the last two years, yet her assessment has increased. She stated it is very difficult to find comparable sites in Raymond because houses are not selling well, and the houses vary in size and year built. She noted a property located at 6616 Lafayette Road sold for \$164,000 in September, 2010, and is newer and larger than her home. The sale also included an additional lot. She believes this property's sale shows her property is over assessed because it essentially is superior to hers. Carole also noted the 6616 Lafayette Road property is likely over assessed based on its sale price.

In addition to the property at 6616 Lafayette Road, Van Brocklins listed several other properties for comparison. In their written evidence, they acknowledged that these properties were less similar than the property at 6616 Lafayette Road. These properties have quite a few differences from Van Brocklins' including the years built, square footage, and building style, among others. Furthermore, these properties were not adjusted for the differences to make them comparable to the subject property. Van Brocklins' list of properties only included two sales: a July 2009 sale of 208 Landmark Drive for \$172,000 – its current assessment is \$172,330; and a June 2010 sale of 185 Taylor

Lane for \$205,000 – its current assessment is \$197,610. Again, these sales were not adjusted to reflect differences between them and the subject property or to conclude a market value for the subject property.

At hearing it became apparent that Van Brocklin was somewhat unorganized and did not understand the appraisal or the assessment processes. The assessor tried to explain it and, in fact, offered for Van Brocklin to come to McFarland's office to learn it.

Tami McFarland, Black Hawk County Assessor, testified on behalf of the Board of Review. McFarland did not believe the properties Van Brocklins chose as comparables accurately reflect the subject property. She completed an analysis of these properties and listed them on a grid, noting the differences between Van Brocklins' comparables and the subject property. She also made adjustments, although cost adjustments, for the differences. McFarland concluded that only the properties located at 6616 Lafayette Road and 185 Taylor Lane were reasonable comparables to Van Brocklins' property. She further concluded that the subject property's assessed value calculation would be \$208,000 based on the average adjusted sales prices per square foot of these two properties. McFarland also submitted additional sales data of properties that sold in Raymond from February 2010 through April 2011 that she notes the Department of Revenue would have used for equalization purposes. The range of sale price per square foot was \$107.05 to \$126.87. McFarland believes this data supports her assessed value of \$190,010. We, however, do not find the data relevant to the actual assessment of the subject property as they are not intended to be comparable sales, but instead are meant to represent that from a mass-appraisal perspective, assessment overall are at or near 100% of market value.

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 (2011). 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). 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).

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. or 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, 257 Iowa 575, 133 N.W. 2d 709 (1965). The six criteria include evidence showing

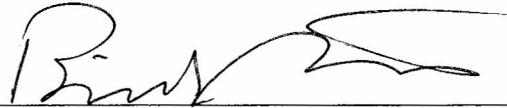
“(1) that there are several other properties within a reasonable area similar and comparable...(2) the amount of the assessments on this properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [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. Van Brocklins failed to provide the necessary proof under either test. Primarily, Van Brocklins failed to show there were sufficiently comparable properties to their own. While we recognize this may be more difficult to do in some jurisdictions, we cannot overlook the issue of comparability.

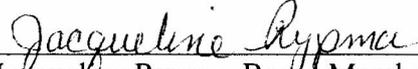
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Van Brocklins offered little evidence in support of a market value claim. They provided sales of some properties, but these sales were not adjusted to account for differences between the “comparables” and their or to conclude a market value for their property. While it is possible that a another property may appear to be over-assessed and superior to their own property, there simply is not sufficient evidence in the record for this Board to find the subject property is over assessed or determine what its assessment should be.

THE APPEAL BOARD ORDERS that assessment of the Van Brocklin property located in Raymond, Iowa, as determined by the Black Hawk County Board of Review for January 1, 2011, is affirmed.

Dated this 5 day of November 2012.



Richard Stradley, 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>11-5</u> , 2012.	
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:	