

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joel Weber,
Petitioner,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-07-1522
Parcel No. 8913-36-126-025

On January 10, 2013, 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 Joel Weber was self-represented. Assistant County Attorney Dave Mason represented the Board of Review and participated by phone. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Joel Weber is the owner of property located at 1601 Bertch Avenue, Waterloo, Iowa. The real estate was classified residential on the January 1, 2011, assessment and valued at \$99,410, representing \$12,130 in land value and \$87,280 in improvement value. Weber protested the assessment to the Black Hawk County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct value was \$76,900, writing on his protest "that [is what] I paid for it." Weber did not offer any testimony or evidence and did not request a hearing with the Board of Review.

The Board of Review denied the protest.

Weber then appealed to this Board re-asserting his claim. On his Notice of Appeal & Petition, Weber again stated the correct value of the subject property is \$76,900, allocated \$10,000 to the land and \$66,900 to the improvements.

According to the property record card, the subject property is a one-story, frame house built in 1945. It has 992 square feet of finished living area and a full, unfinished basement. There is also a 480 square-foot detached garage built in 1951. The site is 0.146.

The property record card also indicates the property was purchased for \$76,900 on March 31, 2011. According to the Assessment Notice dated March 31, 2011, the deed holder of the property as of January 1, 2011, was the Federal National Mortgage Association.

Weber testified that he purchased the house from foreclosure. Prior to purchase, the property had been on the market for “over a year”; and, that it was sold “as is” and needed repairs. Weber does not believe it should be assessed for more than what he paid for it. Weber also asserts the county assessor has not been in the house.

We note that because Weber purchased the property from foreclosure, the transaction may not represent market value. When questioned if he had an appraisal on the subject property, Weber said an appraisal for mortgage purposes was completed when he purchased the property. However, when questioned for the property’s value as determined by the appraisal, he said he did not know the appraised value “off hand.”

Black Hawk County Deputy Assessor TJ Koenigsfeld testified regarding a comparable sales analysis submitted by the Board of Review to this Board. The analysis included four sales from July 2009 to May 2010. The properties are all of similar style, size, age, and location. After making adjustments, the sales indicated a range of value of \$99,920 to \$114,957. Koenigsfeld stated that based on this analysis he believes the January 1, 2011, assessment of \$99,140, was supported. We agree.

Koenigsfeld also testified that Weber's purchase was an abnormal transaction because it was "Sale by Government." Koenigsfeld testified that a prior sale of the subject property in September 2010, for \$71,082 was the result of a Sheriff's sale.

Conclusion of 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. *Id.* 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).

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). Weber's only evidence as to both of these required elements of his over-assessment claim was the sale price of the property on March 31, 2011. Weber asserts that the price he paid for the subject property should be its assessed value, but he also acknowledges and the evidence shows that he purchased the property from foreclosure.

Iowa Code section 441.21(1)(b)(1) provides that in arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). It goes on to provide a non-exclusive list of abnormal transactions, including foreclosure or other force sales. § 441.21(1)(b)(1). By statute, the property's foreclosure sale price cannot be used in determining the property's market value unless appropriate adjustments are made. Weber made no adjustments to the property to account for the foreclosure sale. Further, he did not offer an appraisal or recent, adjusted sales of comparable properties to establish the property's value. Ultimately, Weber did not provide sufficient evidence to show either that his assessment is excessive or his subject property's correct value as of the January 1, 2011, assessment date.

For the foregoing reasons, we determine the property's assessed value as of January 1, 2011, is \$99,410, representing \$12,130 in land value and \$87,280 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Black Hawk County Board of Review is affirmed.

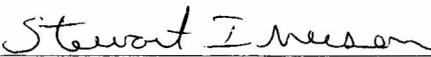
Dated this 6 day of February 2013.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:
Joel Weber
1601 Bertch Avenue
Waterloo, Iowa 50701
PETITIONER

Dave Mason
3265 W. 4th Street
Waterloo, Iowa 50701
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>2-6</u> , 2013	
By:	<input 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	