

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**TEJ & TJJ LLC,**

Petitioner-Appellant,

v.

**Black Hawk County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 11-07-1591**

**Parcel No. 8913-26-151-005**

On July 3, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant TEJ & TJJ LLC was represented by owner/member Tyler E. Junker. It requested a written consideration. Assistant County Attorney David J. Mason represented the Black Hawk County Board of Review. The Appeal Board having reviewed the entire record and being fully advised, finds:

***Findings of Fact***

TEJ & TJJ LLC (TEJ) owner of a residentially classified property located at 613 Randall Street, Waterloo, Iowa, appeals from the Black Hawk County Board of Review regarding its 2011 property assessment. The January 1, 2011, assessment is \$58,230, allocated as \$7050 in land value and \$51,180 in improvement value.

The subject property is a two-story frame, single-family residence built in 1912. The improvements include 1364 square feet of above-grade finish, which includes a 220 square-foot addition built in 1964. The property has a full, unfinished basement. There is also an attic area, but its actual size is not reported. Additionally, the property has a 24 square-foot open porch. The

improvements are listed in normal condition with 35% physical depreciation and 10% functional obsolescence. There is a 484 square-foot, detached garage built in 1951. The site is 0.135 acres.

TEJ protested its assessment to the Black Hawk County Board of Review. On the protest it contended there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. Its petition stated: “sale of property on 4/11/2011 for \$36,100 by government.” 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 App. 2006)(unpublished). Accordingly, we consider TEJ’s claim as one of over-assessment under Iowa Code section 441.37(1)(b).

The Board of Review denied the protest.

TEJ then appealed to this Board reasserting its claim of over assessment. It asserts the correct value is \$43,050, allocated as \$7050 in land value and \$36,000 in improvement value.

Tyler Junker, submitted a written statement and the assessments of five neighboring properties for consideration. Junker identified the following five properties as those that touch his property.

- Neighbor to the direct east: 601 Randall St – \$32,670 assessment 2011
- Neighbor to the southeast: 506 W Wellington St - \$32,280 assessment 2011
- Neighbor to the direct south: 512 W Wellington St – \$25,540 assessment 2011
- Neighbor to the southwest: 516 W Wellington St – \$35,850 assessment 2011
- Neighbor to the direct west: 627 Randall St – \$46,570 assessment 2011

Because these properties have not sold, they cannot be considered for a market value claim.

Junker also states in his petition that he has “attached comparable sales in this neighborhood.”

However, the record is limited and the only a comparable map appears to be from an appraisal completed for MidWestOne Bank. The date of the appraisal, the conclusions, and the appraiser are unknown. The subject property address on the map is noted as 1124 Washington Street, Waterloo, Iowa. We note it is not the subject property of this appeal. The map identifies four properties as follows:

Comparable 1 – 1125 Washington Avenue – 0.01 miles from subject, sold \$25,000  
Comparable 2 – 214 Denver Street – 0.97 miles from subject, sold \$29,000  
Comparable 3 – 523 Baltimore Street – 0.72 miles from subject, sold \$35,000  
Comparable 4 – 407 Locust Street – 0.68 miles from subject, sold \$35,000

There is no other information in the record regarding these properties. We do not know what the sales date of each property is, the condition, size, or actual comparability of the properties to the subject. Therefore, we give this information no consideration.

Lastly, the property record card and HUD Settlement statement for the subject show that the property was purchased in April 2011 for \$36,100. The seller was the Federal National Mortgage Association. This is not considered a normal sale, and we give it no consideration.

The Board of Review did not submit any evidence.

Based upon the foregoing, we find insufficient evidence to support a claim of over-assessment.

#### *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 (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 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).

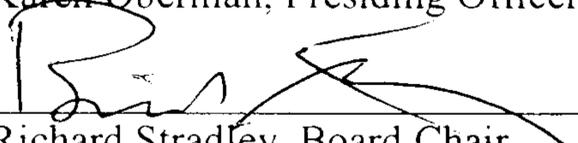
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). TEJ & TJJ LLC did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. Therefore, a preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

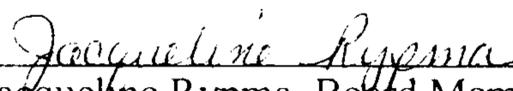
We affirm the assessment of TEJ & TJJ LLC's property as determined by the Black Hawk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of TEJ & TJJ LLC's property located at 613 Randall Street, Waterloo, Iowa, of \$58,230, as of January 1, 2011, set by Black Hawk County Board of Review, is affirmed.

Dated this 30 day of August, 2012.

  
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Karen Oberman, Presiding Officer

  
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Richard Stradley, Board Chair

  
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Jacqueline Rypma, Board Member

Cc:

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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>8-30</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	