

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Thomas J. Witcraft,
Petitioner-Appellant,

v.

Boone County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-08-1410
Parcel No. 08-8426-27-42-82-036

On October 23, 2012, 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. The Appellant, Thomas J. Witcraft, was self-represented and submitted evidence in support of his petition. Assistant County Attorney Daniel Gonnerman represented the Boone County Board of Review. Both parties testified in support of their position but relied on the evidence in the record. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Thomas J. Witcraft (Witcraft), owner of property located at 2003 Aldrich Avenue, Boone, Iowa, appeals from the Boone County Board of Review decision regarding his 2011 assessment. The residential property was valued at \$217,822 for the January 1, 2011, assessment.

Witcraft protested to the Board of Review that the property assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1) and that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). The Board of Review granted partial relief and valued the property at \$202,307; representing \$16,538 in land value and \$185,769 in dwelling value. Witcraft appealed to this Board and asks that his property

be returned to its 2008 assessed value of \$147,438, representing \$17,907 in land value and \$129,531 in dwelling value, for a total of \$54,869 in relief.

The subject property is a one-story, frame dwelling built in 1984. The property has 1252 square feet of total living area. The property is considered to be in normal condition and has an above average quality of construction (3-10) grade factor. The subject property site consists of 0.241 acres.

Witcraft submitted three comparable properties to the Board of Review, but he did not address the comparables at hearing before this Board or make any adjustments to the subject property. We note only one comparable (327 Cpl Snedden) is a recent sale (2010), however, it was a foreclosure sale. The other two comparables were not recent sales. He also attempted to submit seventeen other assessments at hearing. However, these documents were not admitted because the Board of Review properly objected that the evidence was not timely and not relevant.

Witcraft testified the property was in poor condition when he purchased it in 1997. He obtained a building permit in 2003 and has remodeled and repaired the subject property. He stated that his assessment keeps increasing based on equalization orders from the State. Witcraft testified the Boone County Assessor's office indicated they could not do anything about the equalization order increase. This Board notes that a taxpayer can protest equalization orders under Iowa Code section 441.49.

Witcraft stated that property values in Boone County have not increased and his assessment does not reflect market value. We again note the 2008 assessment was \$147,438 and the 2011 assessment was \$202,307, an increase of thirty-seven percent. Like Witcraft, we question the large increase considering that Witcraft has not made improvements since 2008 and the 2008 assessment included the remodeling and repairs. In 2008, the quality grade was 4 + 5 but it was changed to 3 + 10 in 2010. The Board of Review, however, reduced the grade to a 3-10 to lower the January 1, 2011, assessment to \$202,307.

Paul Overton, Boone County Assessor, testified on behalf of the Board of Review. Overton stated a private firm (Vanguard) appraised the subject property in 2007, and the 2008 assessment reflected the remodeling and repairs. Overton testified about the history of the assessment and to the appraisal method used by Boone County. Overton stated he was not the assessor at the time of the assessment. The property's historical record card indicates that the county had state equalization orders of 13% in 1999, 17% in 2001 and 17% in 2005. Additionally, the assessor placed a residential revaluation of 5% in 2007.

This Board does not believe Witcraft's arguments, though valid and to some extent convincing, are sufficient to overcome the burden placed on him. We, therefore, affirm the January 1, 2011, assessment as determined by the Boone County Board of Review.

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 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. § 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, "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 alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence establishing that 1) the assessment is excessive and 2) the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Viewing the evidence as a whole, we determine Witcraft has failed to satisfy his burden of showing the subject property is over-assessed.

We find that Witcraft failed to establish the subject property's correct value. Witcraft asserts that the subject property's correct value is its 2008 assessment, but produces no evidence that this is, in fact, the subject property's correct value as of January 1, 2011. Witcraft did not offer an appraisal or any other testimony to establish the subject property's correct value. Further, he did not make adjustments to the 2008 assessment to account for lapse of time or any other factors that would tend to affect the subject property's assessed value.

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*, 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."

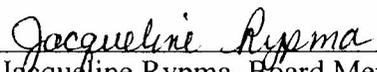
Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* at 579-80. The *Maxwell* test may have limited applicability now that current 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. Witcraft, however, failed to provide the necessary proof under either test.

Witcraft failed to satisfy the *Eagle Food Centers* test because he did not produce evidence that the assessor applied an assessing method non-uniformly to similar or comparable properties. Aside from listing three properties as potentially comparable on his Board of Review petition form, Witcraft did not provide any further testimony about these properties or make adjustments to them which would allow this Board to utilize the properties for comparison purposes. Further, he did not produce evidence of the actual values of these comparable properties as required by *Maxwell* and, as previously discussed, did not prove the subject property's correct value.

THE APPEAL BOARD ORDERS that the assessment of the Thomas J. Witcraft property located at 2003 Aldrich Avenue, Boone, Iowa, as determined by the Boone County Board of Review is affirmed.

Dated this 27 day of November, 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

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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>11-27</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	<u><i>John Wilson</i></u>