

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Dane Greenslade,**  
Petitioner,

v.

**City of Clinton Board of Review,**  
Respondent.

**ORDER**

**Docket No. 11-102-0281**  
**Parcel No. 80-26210000**

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On December 17, 2012, the above-captioned appeal came on for a 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 Dane Greenslade appeared by telephone before the Board and was self-represented. Attorney J. Drew Chambers of Holleran, Shaw, Murphy & Stoutner, in Clinton, Iowa is counsel for the Board of Review and he represented it by telephone at hearing. Both parties submitted evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Dane Greenslade, owner of property located at 705 6th Avenue S, Clinton, Iowa, appeals from the City of Clinton Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story, two-family conversion having 1070 square feet of living area and a full, unfinished basement built in 1889. It also has a 252 square-foot, enclosed porch and two wood decks. The dwelling has average quality grade (4+0). It also has a 961 square-foot, detached garage built in 1997. The improvements are situated on a 0.129 acre site.

The real estate was classified as residential on the January 1, 2011, assessment and valued at \$52,700, representing the \$7000 land value and \$45,700 in building value.

The Board of Review on its own initiative reduced the assessed value to \$35,000 allocated \$7000 to land value and \$28,000 to building value.

Greenslade appealed the Board of Review decision to this Board essentially claiming the ground that the property was assessed for more than authorized by law under Iowa Code section 441.31(1)(a)(2). In his opinion, the buildings and land were correctly assessed until a fire destroyed the dwelling. He believes the garage, which was not damaged by the fire, is worth approximately \$15,000. Greenslade reports it would cost \$10,000 to demolish the burned-out building, or between \$60,000 and \$70,000 to rebuild it. He claims the property should be assessed at \$12,000, allocated (\$3000) in land value<sup>1</sup> and \$15,000 in building (garage) value.

Greenslade submitted 45 color photographs<sup>2</sup> taken on December 10, 2010, detailing the extensive fire damage to the dwelling. He testified that current building codes prevent him from demolishing the entire dwelling and building a new structure because the lot is only forty feet wide and the minimum lot width is currently fifty feet. He provided a copy of the municipal height and area building requirements, but did not provide related zoning ordinances.

Greenslade reported the fire occurred in December 2010 and the assessor assured him the 2011 assessment would automatically be reduced without the need for a Board of Review protest. He said this did not happen as promised. However, we note the Board of Review subsequently reduced the assessment on its own initiative. Greenslade was also critical of the fact that the Board of Review had not inspected the property to assess the fire damage.

Greenslade testified that approximately \$50 worth of vinyl siding was used to cover the porch windows, but that no other remodeling or improvements have been made to the property since the fire. In his opinion, the dwelling is completely unlivable. Greenslade believes the dwelling is worthless

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<sup>1</sup> It appears Greenslade arrived at his negative land value by taking the \$7000 land assessment and reducing it by the estimated \$10,000 in demolition cost.

<sup>2</sup> Although not provided to the Board of Review in advance, the photographs were admitted after they were sent to counsel J. Drew Chambers for review and he did not object to their admission.

because current zoning prohibits building a replacement dwelling on the lot, and rebuilding on the current foundation would be expensive. Greenslade did not provide an appraisal of the property or any other evidence demonstrating the property's value as of January 1, 2011.

The Board of Review submitted two photographs, one taken initially after the fire and the other taken November 13, 2012, after Greenslade covered the front-porch windows with vinyl siding. The property record card indicates the undamaged garage has a depreciated cost, adjusted by map factor, of roughly \$13,000. Subtracting the \$13,000 garage value from the Board of Review's total improvement value of \$28,000, allocates roughly \$15,000 in value for the damaged dwelling. No other evidence was in the record specific to the cost of the foundation, framing, shell, or rebuilding estimates.

While there is evidence Greenslade's dwelling sustained extensive fire damage, which reduced its value, he failed to provide to support his claim that the subject property was assessed for more than authorized by law. Reviewing the entire record, we find the preponderance of the evidence fails to support Greenslade's claim of over-assessment.

### *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. *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). Aside from his assertion that the property is worth \$12,000, Greenslade offered no evidence as to the property's value on January 1, 2011.

We recognize the subject property suffered significant damage resulting from a fire in December 2010. Further, Greenslade testified that a Clinton official advised him that a zoning regulation effectively prevents him from demolishing the existing structure and rebuilding on the existing lot. Although Greenslade has failed to supply sufficient evidence to prevail in his claim before this Board, he is not necessarily precluded from seeking relief from the zoning regulation through other avenues. Without reaching a conclusion as to the applicability of the ordinance to Greenslade, we note that chapter 159 of the Clinton City Ordinance gives the Zoning Board of Adjustment authority to grant variances from zoning regulations. CLINTON, IA, CODE OF ORDINANCES §§ 159.046(F), 159.080.

Viewing the record as a whole, we determine that the preponderance of the evidence fails to support Greenslade's claim of over-assessment. The Appeal Board determines the assessed value of Greenslade's property located at 705 6th Avenue S, Clinton, is \$35,000, representing \$7000 in land value and \$28,000 in building value, as of January 1, 2011.

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

Dated this 10 day of January 2013.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Karen Oberman  
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>1-10</u> , 201 <u>3</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:	<u>J. Drew Chambers</u>