

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Laurie Schnee & Theresa Lockwood,
Petitioners-Appellants,

v.

Sioux City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-107-1427
Parcel No. 8847-05-381-027

On November 27, 2012, the above-captioned appeal came on for consideration 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. Petitioners-Appellants Laurie Schnee and Theresa Lockwood were self-represented and requested a written consideration. Attorney Jack Faith represented the Board of Review and submitted evidence in support of its petition. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Laurie Schnee and Theresa Lockwood are the owners of property located at 2850 S. Palmetto Street, Sioux City, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$118,900, representing \$35,400 in land value and \$83,500 in improvement value. Schnee and Lockwood protested the assessment to the Sioux City Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a downward change in value under section 441.37(1)(b) and its reference to section 441.35(2). This Board notes, 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). They believed the correct value of the subject property was \$80,000,

representing \$35,400 in land value and \$44,600 in improvement value. The Board of Review denied the protest.

Schnee and Lockwood then appealed to this Board reasserting their claim.

According to the property record card, the subject property is a one-story, two-family conversion; an analysis submitted by the Board of Review, however, lists the property as a single-family ranch with an apartment in the basement. It was built in 1962. The property has 1180 square feet of above grade living area and a full basement with 550 square feet of average finish. Additional features include a 234 square-foot concrete patio; a 24 square-foot open front porch; and a 576 square-foot detached garage that was built in 1976. It sits on a 0.241-acre site.

Schnee and Lockwood request an assessed value of \$80,000 based on a partial appraisal of a neighboring property. They provided a letter to the Board of Review that explains their next-door neighbor at 2838 S. Palmetto Street had recently obtained an appraisal on her property, with a value conclusion of \$82,000. They provided only the cover and first two pages of the appraisal. It was completed by appraiser Matt Downing. The effective date of the report is March 29, 2011.

They assert their property is a ranch-style home of similar size, condition, and amenities. Schnee and Lockwood rely on the three comparable properties in the appraisal, 2622 S. Cedar Street, 2258 S. Lemon Street, and 2631 S. Martha Street. They take the \$82,000 final opinion of value for their neighbor's property and use that as a basis for their conclusions. They subtracted \$4000 for the fact that their home has wood lap siding compared to the vinyl siding of their neighbor. They added \$500 for fencing and an additional \$1500 to reflect their larger lot size.

We hesitate to rely on this analysis for several reasons. Most importantly, the appraisal was completed for a different property. We also note the appraisal is incomplete; however, in this instance we do not consider it necessary to request a complete copy because it values a different property. Additionally, while the comparable properties used in the report may be very similar to the subject

property, ultimately, they were not compared directly to the subject property. Rather the opinion of value for the neighboring property, which was not a sale, was compared to the subject property. Lastly, we note that the subject property is a two-family conversion. The limited information in the appraisal indicates the neighboring property is a single-family property. Furthermore, all of the comparable properties considered in the appraisal report are also single-family properties, rather than a two-family property like the subject. It is reasonable to assume that there may be a different value for a property with two units compared to one unit, regardless of other similarities. For these reasons, we give this evidence very little consideration.

Even though we cannot rely on the neighboring property's appraisal to establish a value for Schnee and Lockwood's property, we do find it concerning that the neighbor's property, which appears to be reasonably similar to the subject with the exception of the "apartment" feature, has a determined market value of nearly \$40,000 less than the subject's assessed value. There is no evidence in the record regarding the assessed value of the neighbor's property or any of the comparables used in the appraisal. Although that evidence would be more consistent with an equity claim and not a market value claim, and therefore not relevant in this case, it could help explain the significant discrepancy in asserted values between the two properties.

The Board of Review provided an appraisal report prepared by January Fields, an Appraiser I with the Sioux City Assessor's office. Fields' report is critical of Schnee and Lockwood's analysis. She notes the most recent sale date of the neighbor's property at 2838 S. Palmetto was ten years ago, in February 1999. She also asserts two of the sales (2622 S. Cedar Street and 2558 S. Lemon Street) are not in the same neighborhood as the subject property. Finally, she notes the sale of 2631 S. Martha Street was a court-ordered sale, and she does not consider it an arm's-length transaction. We note the appraiser, however, made no adjustment to this sale for its terms. In summation, Fields asserts the properties submitted by the petitioner are not comparable based on their location, sale date, and sale

type. Fields does not explain why the locations would preclude them from use as comparables, but simply notes they are not located in the “same neighborhood as the subject property.”

Fields’ appraisal includes three sales that she believes are more comparable to the subject property. The properties are located at 2835 S. Lemon Street, 5709 Myers Avenue, and 2732 Willow. They sold between April 2009 and September 2010. They had sales prices ranging from \$119,630 to \$140,000. After adjustments, the indicated values range from \$137,100 to \$141,900, which the Board of Review asserts, “adequately supports” the assessed value of \$118,900. We do not consider an indicated range of value that is roughly \$18,000 to \$23,000 more than the subject’s assessed value “adequate support” for the assessment. It would seem to indicate that either the subject is under-assessed; that properties that are not actually comparable were selected for analysis; or adjustments are not appropriately considered. We reject the idea that the subject is under-assessed given all the evidence in the record.

We note that all three sales in the Board of Review’s appraisal were single-family rather than two-family like the subject, and Fields did not address or make any adjustments for this difference. We also question whether some of the adjustments would be recognized in the market. For example, she makes an adjustment of \$500 to one sale for a difference of only eight square feet of above grade living area. Nevertheless, despite some concerns with Fields’ analysis, the appellant has not shown the property is over-assessed. We do find, however, that Schnee and Lockwood have reason to believe they are over-assessed given the appraisal on the neighboring property, which offers many similarities to their property. As such, it would seem prudent for the Board of Review or the Assessor’s office to re-visit this particular assessment in 2013 to ensure that it is appropriately valued.

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 (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). However, 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 also 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 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). Schnee and Lockwood provided an appraisal completed on a neighboring property and asserted that property's similarities should require a similar value for their property. Further, they did not adjust the comparable properties to their property. The Board of Review's appraisal was critical of

those sales due to location and, in one instance, the sale not representing an arm's length transaction. Mainly because the appraisal Schnee and Lockwood submitted was not for the subject property, we find they failed to provide sufficient evidence to support the correct fair market value of the property.

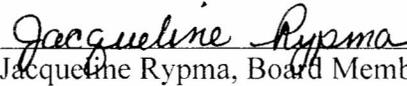
Therefore, we determine the property's assessed value as of January 1, 2011, is \$118,900, representing \$35,400 in land value and \$83,500 in dwelling value.

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

Dated this 28th day of December 2012.



Karen Oberman, Presiding Officer



Jacqueline Rypma, 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>Dec. 28</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	