

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Floyd Family Wash Center, LLC,
Petitioner-Appellant,

v.

Sioux City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-107-1445
Parcel No. 8947-15-251-011

On October 8, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Floyd Family Wash Center, LLC, was represented by attorney David L. Updegraff, Sioux City, Iowa. Attorney Jack A. Faith represented the Sioux City Board of Review. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Floyd Family Wash Center, LLC, (Floyd), owners of property located at 2701-03 Trinity Drive, Sioux City, Iowa, appeals from the Sioux City Board of Review decision regarding its 2011 property assessment. The January 1, 2011, assessment of \$786,700 is allocated as follows: \$159,100 in land value and \$627,600 in improvement value.

Floyd protested to the Board of Review on the grounds that the property was not equitably assessed as compared to the assessments of other like property in the jurisdiction under Iowa Code section 441.37(1)(a)(1); the property was assessed for more than authorized by law under section 441.37(1)(a)(2); and the property exempt from taxation under section 441.37(1)(a)(3). Floyd believes its car wash equipment is exempt under section 427A(1)(6). The Board granted the protest in part

reducing the assessment to \$726,900, representing \$99,300 in land value and \$627,600 in building value.

Floyd then appealed to this Board reasserting the same claims. Floyd believes the correct value is \$265,000.

The subject property is a car wash with approximately 2806 square feet. According to the property record card, it was built in 2008 with above average construction grade (3+10). The property is in normal condition. The property also includes a Laundromat having 2553 square feet. The site consists of 0.597 acres; the record is not clear, but it appears to include the whole site.

Richard Salem, a commercial real estate broker, testified on behalf of Floyd. Salem completed a "Brokers Price Opinion" (Exhibit 3). Salem determined a value of \$390,000 for the property not including furniture, fixtures, and equipment. Salem noted that the subject car wash sits nearly a full block off the main thoroughfare, Floyd Boulevard, and behind two other commercial properties. He believes this location lessens the value of the property. Salem identified one other car wash in the area, which he believes has a better location.

In developing his opinion of value, Salem testified that he could not find properties similar to the subject property. The subject property is the only carwash/Laundromat facility he knows of located in Sioux City. To determine a value for the subject property, Salem selected other commercial carwashes and stand-alone Laundromats. None of these properties recently sold, and instead of considering sales prices, Salem considered their assessed values. He determined an assessed value per square foot for these properties to arrive at an indicated value for the Floyd property. These properties were all older than the Floyd car wash and varied in size. Salem did not adjust the properties to make them comparable to the subject property.

Salem also submitted a basic financial spreadsheet regarding the subject property (Exhibit 5). However, this was not an income approach to value. We give this information no consideration.

Finally, Salem stated he gave no weight to the cost approach. Salem testified that he is not an appraiser nor did he do an appraisal. He only conducted a broker's opinion of value.

Floyd did not provide direct testimony regarding what, if any, equipment is being assessed for property tax purposes that should not be.

Al Jordan, Sioux City Assessor, testified he used the *Iowa Real Property Appraisal Manual*, and could not locate comparable sales. Jordan also testified he did not value the exempt car wash property.

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 determined 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).

To prove equity, 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. or 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.”

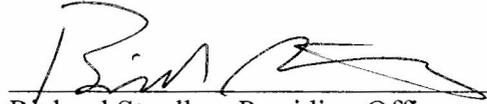
Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa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

In an appeal that alleges 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). Floyd offered little evidence in support of a market value claim. While Salem may be a good broker and have knowledge of the market in Sioux City, he has failed to prove the market value of the subject property is less than the assessed value based on comparable sales, which is the preferred method of valuation.

The evidence in the record does not support the claims brought before this Board.

THE APPEAL BOARD ORDERS that assessment of the Floyd Family Wash Center, LLC, property located at 2701-03 Trinity Drive, Sioux City, Iowa, as determined by the Sioux City Board of Review, is affirmed.

Dated this 8 day of November 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


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>11-8</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	