

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dana Brant,

Petitioner-Appellant,

v.

Cerro Gordo County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 11-17-0254
Parcel No. 05-13-203-007-00**

On January 4, 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 Dana Brant was self-represented and requested a written consideration. The Cerro Gordo County Board of Review designated County Attorney Steve Tynan as its representative. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Dana Brant, owner of a commercially classified property located at 506 N 5th Street, Clear Lake, Iowa, appeals from the Cerro Gordo County Board of Review regarding the 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$17,150 in land value and \$81,460 in improvement value for a total assessment of \$98,610.

The subject property is a two-story, tri-plex built in 1910. The improvements include 2838 square feet of above-grade finish; a full unfinished basement; a 272 square-foot attached garage; and several small enclosed porches and patio areas, as well as, a small detached utility shed built in 1971. The site size is estimated to be 0.137 acres.

Brant protested the assessment to the Cerro Gordo County Board of Review. It is unclear if

Brant chose to participate at the Board of Review hearing. On an attachment to the protest, Brant contended the property is assessed for more than the value authorized by law under section 441.21(b). Brant also asserts there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. Brant's statement regarding this claim essentially asserted the subject property is over-assessed.

The Board of Review denied the protest.

Brant then appealed to this Board reasserting the claim of over-assessment. Brant believes a "fair value would be \$88,000," allocated as \$17,150 in land value and \$70,850 in improvement value.

Brant submitted a letter to the Board of Review, along with income tax schedules, the declaration page from an insurance company, and listings on three properties Brant considered comparable. Additionally, an appraisal was included of another income-producing property Brant owns. We do not find the appraisal relevant.

In her letter, Brant states the property was purchased in 2010, on contract, for a negotiated price of \$92,000. Brant acknowledges the closing contract indicates a sale price of \$96,000; however asserted that included some repair work and closing costs. Brant did not have an appraisal on the property at the time of purchase and is uncertain the property was worth the price.

Brant completed a three-page income and expense report, indicating gross monthly rents of \$1285. Actual income from May to December 2010 was \$10,280. The rents are broken down into the three units as \$385, \$425, and \$475. The owner pays for water/sewer, gas and electric for the common areas. The tenants pay for their own gas and electricity. The reported expenses total \$4900, which includes \$2400 for taxes. Although Brant provided the income and expenses, no income approach to value was developed.

Brant supplied the insurance declaration page for the subject property. Brant notes the dwelling has a \$92,000 limit. We note this value most likely represents cost new rather than the

depreciated value of the improvements. Additionally, Brant does not provide an estimate of value for the land or an estimate of total value. We do not consider this insurance information to reflect the depreciated total value of the subject property and give it no consideration.

Brant provided three listings to consider as comparables. The first listing is for a property located 304-304 ½ S Shore Drive, Clear Lake. It sold in May 2010 for \$81,300. It features two improvements which include a duplex and a single-family home on a one site. The listing indicates the property was sold in “as is” condition, although Brant wrote on the listing that the “old owner had also done numerous updates before selling.” Brant notes this property is “just around the corner” and considers it a “great comp.”

The second listing is for a property located at 22 N Connecticut, Mason City. This property sold in September 2010, for \$40,000. It is a tri-plex similar to the subject. The gross monthly income reported for this property is \$1200, which Brant points out is comparable to the subject property which has an income of \$1285 per month.

The final listing is for a property located at 313 N Hawkeye, Nora Springs. It is also a tri-plex. Brant notes this property is located east of Mason City and sold in July 2009 for \$57,500.

Brant did not make adjustments for any differences between these properties and the subject and did not offer a conclusion of value based on these market sales. As such, we give it limited consideration.

Lastly, Brant offered personal examples of why there has been a decline in the Clear Lake/Mason City area. Brant indicated a duplex was purchased in 2004 for \$50,000, and then remodeled for \$33,000; thus Brant claims there is \$83,000 invested in the property. She had the property appraised for a refinancing loan in 2010. The appraisal opined a value of \$60,000. In Brant’s opinion this indicates a decline of value over the 2004 to 2010 time period. However, we find this inconclusive based on the data presented. Brant also claims two, two-bedroom properties were sold in

2009; they were priced to “sell fast.” Brant asserts both properties sold for about \$10,000 less than what they could have for in 2007. Again, we find this anecdotal evidence insufficient to support Brant’s claim of over-assessment.

The Board of Review provided a copy of the April 19, 2010, purchase contract for the subject property indicating a price of \$96,000. It also provided a “Commercial Property Assessment Questionnaire” for the subject property Brant filled out. It did not provide explanation for either document. Therefore, we give them limited consideration.

Based upon the foregoing, we find Brant has provided 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 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 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). Brant did not provide sufficient evidence of the correct and actual market value of the subject property. A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

We therefore affirm the assessment of Dana Brant's property as determined by the Cerro Gordo County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Dana Brant's property located at 506 N 5th Street, Clear Lake, Iowa, of \$98,610, as of January 1, 2011, set by Cerro Gordo County Board of Review, is affirmed.

Dated this 1 day of February, 2012.

Karen Oberman
Karen Oberman, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Jacqueline Rypma
Jacqueline Rypma, Board Member

Cc:

Dana Brant
1201 N 5th Street
Clear Lake, Iowa 50428
APPELLANT

Steve Tynan
220 N Washington Avenue
Mason, City, Iowa 50401
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>2-1</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>[Signature]</u>