

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dmitry Yarushkin & Yang Yang,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-25-0486
Parcel No. 16-13-227-001

On October 5, 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. Petitioners-Appellants, Dmitry Yarushkin and Yang Yang, were self-represented. County Attorney Wayne M. Reisetter is counsel for the Board of Review and Assessor Steve Helm represented it at hearing. Both parties submitted documentary 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

Dmitry Yarushkin and Yang Yang, owners of property located at 116 S 62nd Street, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. According to the property record card, the subject property is a two-story, frame dwelling having 2849 total square feet of living area and an attached, 802 square-foot garage. It has a full, unfinished basement. The property is also improved by a 93 square-foot, open porch; 384 square feet of deck; and a 261 square-foot patio. The dwelling was built in 2004 and has a 2-5 quality grade. It is situated on a 0.341-acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$358,140, representing \$68,430 in land value and \$289,710 in dwelling value.

Yarushkin and Yang protested to the 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). The Board of Review denied the protest.

Yarushkin and Yang then appealed to this Board raising the same claims. They claimed that \$324,255; allocated as \$68,430 to land value and \$255,825 to dwelling value, was the actual value and a fair assessment of the property. 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). Accordingly, we only consider whether the property is over-assessed, not whether there has been a change in value.

Yaruskin testified the subject property is his primary residence, and he purchased it for \$320,000 from Liberty Bank in 2009. It was purchase after a deed in lieu of foreclosure. He reports this Board reduced his 2010 assessment from \$358,140 to \$330,995. Yarushkin testified the assessment was then raised back up in 2011. We note, however, the 2010 appeal hearing before this Board was held on May 19, 2011, and this Board's decision was rendered until after the Dallas County Board of Review considered Yarushkin and Yang's 2011 assessment protest.

Yarushkin and Yang attached a chart to their petition listing four 2010 sales they believe are comparable to their property. Yarushkin consulted with Don Whitman of Your Choice Realty to develop this chart. Yarushkin and Yang reported that all the sales prices were less than the respective assessed values by an average of 90.5%. Yarushkin and Yang, therefore, assert it is reasonable that their property should have a value of 90.5% of its current assessment, or \$324,255. We note that at least one of the sales was reported as a short sale; and therefore, the transaction may not be indicative of fair market value without adjustment. Additionally, Yarushkin and Yang did not adjust these sales prices for differences between the sale properties and the subject property. Yarushkin said the

properties Whitman selected were comparable and therefore, did not need adjustments. While the selected sales suggest those properties may be over-assessed, the same conclusion cannot be made for the subject property. There are differences between the sales and the subject, such as size, year built, and basement finish, that are not accounted for. Therefore, we give this information limited consideration.

Yaruskin and Yang also submitted a Desktop Underwriter Property Inspection report (Exhibit 1) prepared by Jeff Potthoff of Potthoff Appraisals, Waukee, Iowa. It was completed for refinancing purposes. The appraiser does not reach a value conclusion, and we give it no weight.

The Board of Review submitted documents recording mortgages taken out by Yaruskina and Yang on the subject property since they purchased it (Exhibits A through D). The mortgages ranged from \$233,000 to \$291,200. Yaruskina testified the mortgaged amounts were at least 80% of the value of the property. At hearing Assessor Steve Helm stated that based on a minimum of 80% financing, the estimates of fair market value would be \$291,250 to \$364,000.

Exhibit	Instrument Date	Consideration	Estimated Market Value
A	11/22/2010	\$291,200	\$364,000
B	02/29/2012	\$285,000	\$356,250
C	04/26/2010	\$233,000	\$291,250
D	03/04/2000	\$256,000	\$320,000

This information is an indirect and unreliable method to establish the subject property's fair market value, and we give it little consideration.

While there is some evidence suggesting the subject property may be assessed for more than its fair market value; the sales prices were not adjusted to account for differences between the subject property and the comparable properties. Viewing the record as a whole, we determine Yarushkin and Yang failed to prove by the preponderance of the evidence that their property is over-assessed.

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). 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 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).

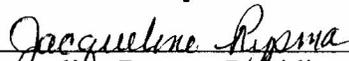
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Yarushkin and Yang provided unadjusted sales data to support their claim the subject property was over-assessed. While that data may suggest the sale properties appear to be over-assessed, the same conclusion cannot be made for their property. The data was not adjusted to account

for dissimilarities between the subject property and the comparable properties. No other evidence in the record showed the subject property was over-assessed.

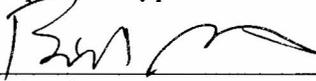
Therefore, we affirm the Yarushkin and Yang property assessment as of January 1, 2011, of \$358,140, representing \$68,430 in land value and \$289,710 in dwelling value.

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

Dated this 29 day of November 2012.



Jacqueline Rypma, Presiding Officer



Richard Stradley, Board Chair



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>11-29</u> , 201 <u>2</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:	