

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dmitry Yarushkin & Yang Yang,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-25-0487
Parcel No. 12-35-453-004

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 1030 SE Indigo Lane, Waukee, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. According to the property record card, the subject property is a split-level, frame dwelling with a total finished area of 1740¹ square feet: the first two levels have 1340 square feet and there is a full

¹ The reporting method for total square footage of split-level homes changed between 2011 and 2012. Assessor Steve Helm explained that quarters behind the garages (third level) were not included in the total square foot of living area in 2011 but were included in 2012. Previously, the four-level split homes had the two upper levels reflected as above-grade finish, and two lower levels reflected as basement area and basement finish. The 2012 property record cards reflect three levels as above-grade finish, and the fourth level reflects the true basement area. The *total finish* of the subject property and other similar split-level homes has not changed.

basement with 400 square feet of living-quarter finish. The property is also improved by a 400 square-foot attached garage and a 120 square-foot deck. The dwelling was built in 1999 and has a 3-10 quality grade. It is situated on a 0.194-acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$183,280, representing \$45,000 in land value and \$138,280 in dwelling value. Yarushkin and Yang protested to the Board of Review on the grounds that the property assessed for more than authorized by law under Iowa Code section 441.41(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 granted the protest, in part, and reduced the total assessment to \$172,410, allocated \$45,000 to land value and \$127,410 to dwelling value.

Yarushkin and Yang then appealed to this Board raising the same claims. They claimed that \$147,500 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.

Yarushkin and Yang purchased the subject property in December 2010 for \$147,500. They believe the purchase price should be the assessed value because they claim the sale was an arm's-length transaction and other sales support this value.

Yarushkin and Yang attached a chart to their Board of Review petition listing three 2010 sales they believe are comparable to their property. Yarushkin and Yang reported that all the sale prices were less than the respective assessed values. They did not adjust these sales prices for differences between the sale properties and the subject property. Additionally, there is little information in the record regarding these properties.

Yarushkin and Yang also submitted an appraisal completed by Paul M. Wiedemeier of Central Iowa Appraisers, Inc., Des Moines (Exhibit 1) with an effective date of January 28, 2011.

Wiedemeier's analysis included three sales and two listings of split-level and two-story dwellings in competing neighborhoods in Waukee and Clive, which he deemed similar to the subject property. The appraisal concludes a value of \$150,000.

Despite Yarushkin and Yang's claims to the contrary, the appraisal indicates the subject property was a short sale. We note this contradicts the information on the property record card, but Wiedemeier's appraisal indicates he personally researched the sale. Additionally, two of the three sales he used in the analysis were also distress sales. Despite the fact that Wiedemeier identified the comparable sales were distressed, he did not make adjustments for these sale conditions. Furthermore, he gave equal weight to the two distress sales and the one normal sale transaction. We find that Wiedemeier did not account for any distorting effects of the distress sales nor did he address whether they would have any impact on the market value; therefore, we do not consider the sale prices as reliable indices of market value. Because of this, we give Wiedemeier's appraisal no consideration.

The Board of Review provided a list of comparable sales occurring from late 2010 to mid-2011 (Exhibit B) and provided complete property record cards for each property.² The subject property's short sale price per-square foot is significantly less than the sale price of the comparable properties on a per-square foot basis, but this is would not be unusual for a short-sale transaction. The subject property's assessment per-square foot, however, is in the middle of the \$91.90 to \$112.89 range of the comparable properties. The information is summarized in the chart below.

² The property record cards supplied reflect the total living area on levels one, two, and three. The subject's total finish on these three levels will be compared to the sales total finish for consistency.

Address	Year Built	Total Finished Area	Sale Date	Sale Price	\$/SF	2011 Assessed Value	Assessed Value/SF
Subject	1999	1740	2/12/2011	\$147,500	\$84.77	\$172,410	\$99.09
1035 SE Indigo Ln	2000	1504	4/20/2011	\$165,000	\$109.71	\$167,910	\$111.64
1125 2nd St	1993	1596	12/16/2010	\$164,500	\$103.07	\$160,860	\$100.79
140 Melrose Dr	1994	1451	1/10/2011	\$161,000	\$110.96	\$163,810	\$112.89
15239 Hawthorn Ct	1995	1826	8/9/2011	\$185,000	\$101.31	\$167,810	\$91.90

This data does not support a 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 (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).

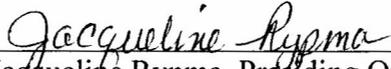
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

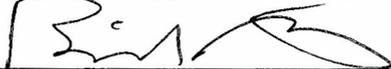
In this case, the subject property sold just prior to the assessment date. The wording of section 441.21(1)(b) makes clear that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value, but it does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Furthermore, a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. § 441.21(1)(b). Because the subject property sold as a short sale and this distorting factor was not clearly accounted for, we find it unreliable as an indicator of the property’s fair market value. Viewing the record as a whole, Yarushkin and Yang failed to prove by a preponderance of the evidence their property is assessed for more than authorized by law. Sale information from comparable properties was not adjusted to account for differences between those properties and the subject and does not support the claim that the subject property is over-assessed.

Therefore, we affirm the Yarushkin and Yang property assessment as of January 1, 2011, of \$172,410, representing \$45,000 in land value and \$127,410 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 checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	