

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dmitry Yarushkin & Yang Yang,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-25-0488
Parcel No. 12-34-0403-006

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 810 SE Willow Brook Drive, 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 two-story, frame dwelling having 1456 total square feet of living area, a full unfinished basement, and an attached, 393 square-foot garage. The property is also improved by a 24 square-foot, open porch and a 100 square-foot deck. The dwelling was built in 2005 and has a 4+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 \$170,280, representing \$37,650 in land value and \$132,630 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 441.41(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). 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). Therefore, we only consider the claim of over-assessment. The Board of Review granted the protest in part, reducing the total assessment to \$167,200, allocated \$37,650 in land value and \$129,550 in improvement value.

Yarushkin and Yang then appealed to this Board raising the same claims.

Yarushkin testified they purchased the property in March 2011, on the open market, for \$139,600 and provided one page of the purchase agreement. He stated that the property had been listed for a year with no offers and that the original list price was \$170,000. He included a price history from Zillow¹ for the subject property. Yarushkin believes the purchase price should be the value of the property. While the price history indicates the subject had been listed beginning in February 2010 for \$170,000 the listing was removed in April 2010. It was off the market for several months before being relisted in August 2010 for \$168,000. The list price was reduced periodically; ultimately, it was removed from the market again in January 2011 according to the Zillow price history.

Yarushkin and Yang attached a chart to their petition listing three 2010 sales they believe are comparable to their property. They report that all the sales prices were 92.5% of the assessed values. The three sales are located at 535 SE Cardinal Lane, 515 SE Cardinal Lane, and 1705 SE Olson Drive, Waukee. Sales prices ranged from \$143,000 to \$184,000. Multiple Listing Sheets (MLS) for these three properties indicate 535 and 515 SE Cardinal Lane were both listed as short sales. We note that in

¹ Zillow is an on-line real estate database and provides value estimates on properties.

arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). Even though Yarushkin considered these sales comparable, he did not make adjustments for the potentially distorting factor of abnormal transactions; nor did he adjust them for differences such as size or basement finish. As such, we give this information no weight.

At hearing, Yarushkin also provided property information sheets from Zillow and another on-line real estate information source for four additional properties he considered comparable to the subject. They are located at 785 SE Westgate Drive, 440 SE Waco Place, 575 SE Carefree Lane, and 430 SE Carefree Lane, Waukee. Three of the properties were sales; however they were not adjusted for differences. Because these properties were either unadjusted or, in the case of 430 SE Carefree Lane, not an actual sale, we give them no consideration; although the raw data does not appear to support Yarushkin and Yang's assertion that their property is over-assessed.

Assessor, Steve Helm noted the subject was listed and sold as a short sale.² He provided a hand-written note from the listing agent, Sheila Beavers of Iowa Realty. The note states the subject property sold as a short sale and that the tenant was not cooperative for showings. Yarushkin did not dispute this information.

Additionally, the Board of Review provided a list of fifteen comparable sales. These sales of similar size and style properties are located in Waukee, West Des Moines, Clive, and Urbandale. They have sale dates between January 1, 2010, and December 31, 2011. We note the sales that occurred after the January 1, 2011, assessment date are less relevant for determining the subject property's value as of that date. The sales prices ranged from \$110 to \$122 per square foot. Comparatively, the subject property has an assessed value of \$115 per square foot. Despite any claims

² A short sale is commonly known as a sale that occurs when the bank is willing to take less than owed on the property in lieu of foreclosure.

by Yarushkin to the contrary, the sales price per square foot of the subject property is irrelevant because it is an unadjusted short sale transaction.

These fifteen sales were narrowed down to the four most similar and most proximate properties. They are located at 785 SE Westgate Drive, 575 SE Carefree Lane, 440 SE Waco Lane, 430 SE Carefree Lane. All four sales were built by the same builder and are the same model as the subject. They had sales prices ranging from \$169,000 to \$170,500. Although they appear on paper to be identical to the subject in style and size, they remain unadjusted for differences that may exist in condition and amenities such as basement finish or decks/patios. As such, we give limited consideration to the raw data; however, it does appear to support that the subject property is not over-assessed.

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).

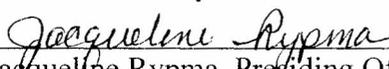
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or 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 failed to provide evidence to support their assertion that their property is over-assessed.

Therefore, we determine the property's assessed value as of January 1, 2011, is \$267,200.

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> , 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><i>[Handwritten Signature]</i></u>