

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

KJ Property Management,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0491
Parcel No. 171/00360-056-000

On September 25, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Owner, Doug Wilson, represented the Appellant KJ Property Management (KJ Property) and submitted evidence in support of its position. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr., as its representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

KJ Property Management is the owner of a residential, single-family property located at 714 6th Street SE, Altoona, Iowa. The property is a one-story home built in 1960, and has 1225 square feet of above-grade finish. There is no basement. Additional improvements include a 576 square-foot, detached garage built in 1971, and a 256 square-foot deck. The site is 0.236 acres.

KJ Property protested to the Polk County Board of Review regarding the 2011 assessment of \$106,300, allocated as follows: \$27,300 in land value and \$79,000 in improvement

value. Its claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2); and 3) that there is an fraud in the assessment under section 441.37(1)(a)(5). The fraud claim essentially asserts the subject is over-assessed. It believes the correct total value was \$86,500, which was the purchase price of the property in March 2011.

The Board of Review denied the protest.

KJ Property then appealed to this Board reasserting its claims.

On the Board of Review protest form, KJ Property listed three properties in Altoona as equity comparables. The properties are 703 7th Street SE, 201 4th Street SE, and 701 8th Street Place SE. The 7th Street and 4th Street properties are identified in the record as being “bank” sales as the result of foreclosure, which would disqualify them from an equity analysis and unless adjusted would likely not be considered for a market value analysis. In 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. § 441.21(1)(b)(1).

The 8th Street Place property was an arm’s length transaction and reasonably similar to the subject in style, grade, size, age, and condition. It has a 2011 assessment of \$99,000, and sold in August 2009 for \$85,000. However, regardless of the similarities, this sale was unadjusted and unexplained. Additionally, KJ Property did not analyze this sale for an equity analysis.

Wilson testified at hearing and explained the subject property was a three bedroom, one bath property, which he believes had limited curb appeal at the time it was purchased in 2011.

Wilson also pointed out the property had been listed for just over four months¹ prior to an offer being accepted. Therefore, he believes the property was reasonably exposed and the sales price reflects the market value.

He also indicated there was a fourth room that could not be considered a bedroom because it did not have a heating source. At some point, prior to KJ Property owning the property, a one-car attached garage was converted into living area. A portion of the former garage is now part of the extended living room, with the remaining portion partitioned into a private room. He does not believe this is a bedroom because it does not have its own heat source and the room is very cold when the door is closed. The portion of the garage that makes up the extended living room area is open and receives ambient heat from the original heat source in the home. We note the cost sheet provided by the assessor's office indicates the entire main living area has gas-forced air as a heat source. Because Wilson testified this is not true, we suggest the Board of Review request an inspection for verification and correction if necessary.

Wilson submitted three additional comparable properties at hearing.

	Date of Sale	Sale Price	2011 AV	Style	Year Built	Size	Basement	Garage
Subject	Mar-11	\$86,500	\$106,300	1 Sty	1960	1225	None	2 Det
1111 4th Street NW	Aug-11	\$110,000	\$120,500 ²	1 Sty	1977	960	960/Unfin	2 Det
507 4th Street SE	Aug-12	\$80,500	\$101,800	1 Sty	1959	1073	None	1 Det
2205 2nd Street SW	Aug-12	\$91,000	\$109,700	1 Sty	1984	1136	None	1 Att

Wilson believes that the property at 1111 4th Street is superior to the subject property due to being a "newer" home, having a full basement, central air, new windows, a full two-car garage, and better curb appeal; yet, it sold for \$110,000, only slightly higher than the subject's

¹ Wilson provided a portion of the listing history of the subject property. It was listed for sale on October 25, 2010, for \$118,000. There were several reductions prior to an offer on March 5, 2011.

² The original 2011 assessment for this property was \$120,500; however, it was lowered to \$113,300, after an appeal to the Board of Review.

assessed value. Therefore, he asserts this property demonstrates the subject is over-assessed. The property record card indicates that KJ Property was the buyer of this comparable. Wilson was questioned at hearing if he knew that this property had been listed on the MLS, as “home must be sold...” Wilson indicated he was unaware of that and he believes it was a willing buyer and a willing seller. We note there is no evidence in the record suggesting this is a distressed sale.

At hearing, it was noted the subject property had previously been purchased for \$115,000 in February 2010, on contract. When questioned if he knew that the prior buyers had defaulted on the contract, putting the title-owner in the position of owning two homes, Wilson indicated he was unaware of that information. He has no reason to dispute that the party he bought the property from may have been distressed; however, also stated he had no knowledge of the motivations behind the sale.

Wilson also commented on the sales located at 507 4th Street SE and 2205 2nd Street SW, asserting they have nicer curb appeal, but were similar properties with no basements and comparable room counts. Ultimately, it is Wilson’s position that the sales price is the market value of a property. We agree that the sales price of a property may be a good indicator of value; however, it is not the only indicator.

We note, these properties were not adjusted for any differences. Additionally, all three occurred after the January 1, 2011, assessment date. Therefore, we give them limited consideration.

The record also includes an appraiser’s analysis completed by the Assessor’s Office for the Board of Review. The analysis considered five one-story homes all built in 1959 or 1960. Three of the properties do not have any basement similar to the subject, one has partial basement,

and one has a full basement. Removing the home that has a full basement, the remaining properties had sale prices from \$85,000 to \$133,000, and sold between August 2009 and December 2010. After adjustments, the sales range from \$87,500 (rounded) to \$120,500 (rounded). However, the adjustments made by the Board of Review appear to be cost adjustments rather than market adjustments. Therefore, we give this analysis no consideration.

Based on the foregoing, we find insufficient evidence has been provided to support the claims raised before this Board. We again suggest, however, the Board of Review request an interior inspection of the subject property to ensure the heating is properly listed and appropriately valued.

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). However, 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 inequity, 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. of 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. Shriver*, 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 those 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 its 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.

KJ Property, however, did not show inequity under the tests of *Maxwell* or *Eagle Foods*. Although we found the 8th Street Place property reasonably comparable, KJ Property did not conduct an equity analysis. KJ property did not show that the assessor failed to apply an

assessing method uniformly or that the subject property's assessed value is proportionately higher than comparable properties under *Maxwell*.

In an appeal alleging 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: 1) the assessment is excessive and 2) the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). KJ Property did not establish the correct market value of the subject property.

KJ Property also asserts the market value of the subject should be the sales price. We think it is clear from the wording of section 441.21(1)(b)(1) that a sales price for the subject property in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996) (holding the same).

THE APPEAL BOARD ORDERS the assessment of KJ Property Management's property located at 714 6th Street SE, Altoona, of \$106,300, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

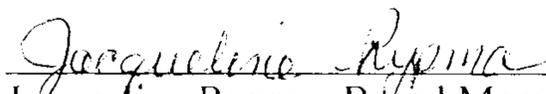
Dated this 17 day of October, 2012.



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

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REPRESENTATIVE 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>10-17</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>Ralph Marasco, Jr.</i></u>