

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jeff Sporrer,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0898
Parcel No. 181/00495-905-104

On November 27, 2012, the above-captioned appeal came on for consideration 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. Petitioner-Appellant Jeff Sporrer requested his appeal be considered without hearing. He was self-represented. Assistant County Attorneys David Hibbard, Ralph E. Marasco, Jr., and Anastasia Hurn represent the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Jeff Sporrer, owner of property located at 5102 NE LedgeStone Court, Ankeny, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story dwelling with 1396 square feet of living area built in 2007. The dwelling has full, unfinished basement, a 24 square-foot open porch, and a 420 square-foot attached garage. It has a good quality (3-05) construction grade and is in normal condition. The improvements are situated on 0.339 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$153,300, representing \$37,200 in land value and \$116,100 in dwelling value.

Sporrer protested to the Board of Review that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He requested a reduction in value to \$138,000. The Board of Review denied the protest.

Sporrer then filed his appeal with this Board based on the same ground. He states that he paid \$136,600 for the property and it was appraised at \$141,000. He requests the \$141,000 market value be allocated \$35,000 to land value and \$106,000 to dwelling value. He provided the first page of a purchase agreement dated February 8, 2011, verifying the \$136,600 purchase price.

Sporrer provided an appraisal of the subject property, prepared by Cris Swaim of Swaim Appraisal Services in West Des Moines, Iowa. Swaim's appraisal had an effective date of March 7, 2011, and determined an "as is" opinion of value of \$141,000.

Swaim developed the sales comparison approach to value and utilized four sales¹ and one active listing in his analysis. Like the subject property, all of the sales and the active listing were real estate owned (REO). The sale properties were of similar style, location, and size as the Sporrer's property. Sale prices ranged from \$126,000 to \$156,000; or \$89.74 to \$104.42 per square foot. After adjustments for condition, living area, room count, fireplaces, garage stalls, and basement and finish, the adjusted sales prices ranged from \$139,500 to \$150,500. Unlike the subject property's two-story design, the active listing was a ranch style house priced at \$169,000 that Swaim adjusted downward to \$159,400. Swaim did not adjust for sale conditions.

By failing to adjust the abnormal sales upward to account for the distress sale transaction, Swaim in essence determined the subject property's REO value and not its fair market value. Swaim's appraisal does not accurately reflect the property's market value as of January 1, 2011. Because Iowa law requires that property be assessed at market value, we give the appraisal no consideration.

¹ Three of these sales were offered by Sporrer in his protest to the Board of Review. We note the assessed values of these properties exceed the subject property's assessed value.

Sporrer purchased the property from a lending institution, Citi Mortgage, Inc., and this sale would be considered an abnormal transaction under Iowa Code section 441.21(1)(b). The sale price of an abnormal transaction, such as a REO sale, should be adjusted to account for this distorting factor, or an explanation should be provided of why an adjustment was unnecessary. *See* § 441.21(1)(b). Without an adjustment or explanation, the sale price is not a reliable indicator of the property's market value. Since Sporrer's purchase was not a normal, arm's length transaction, it is not determinative of his property's fair market value.

The Board of Review offered no additional evidence to this Board. It relied solely on the evidence already in the record, including the Board of Review Appraiser Analysis. The Board of Review Appraiser Analysis compared five 2009 through 2010 sales of properties deemed similar to the subject property. They ranged in size from 1413 square feet to 1688 square feet. Sale prices ranged from \$169,900 to \$182,500, or \$108.12 to \$120.24 per-square foot. The sales were adjusted for differences in living area, quality, basement size, and other amenities. Adjusted sale prices ranged from \$159,068 to \$176,102 with median of \$161,817, or \$94.23 to \$124.63 per-square foot with a median of \$105.20 per-square foot. The subject property's assessed value of \$109.81 per-square foot is within the ranges of the adjusted sales.

Viewing the record as a whole, we find the preponderance of the evidence does not support Sporrer's claim his property was over-assessed as of January 1, 2011. Sporrer's purchase was the result of a REO sale and is not a reliable indicator of its fair market value. He failed to prove the property's correct fair market value as of January 1, 2011.

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 to be considered in arriving at market value. *Id.* In determining market value, sale prices of properties in abnormal transactions shall not be utilized, or must be adjusted to eliminate the effect of distorting factors. *Id.* These factors include sales to immediate family members, *foreclosure or other forced sales*, contract sales, and purchase of adjoining land. *Id.* The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

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), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77. 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). It is clear from the wording of section 441.21(1)(b) 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 does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996).

In this case, Sporrer failed to satisfy his burden. Swaim's appraisal determined the property's REO value, but did not make adjustments to the comparable properties to account for distorting factors and, therefore, did not demonstrate the property's fair market value. Additionally, we find Sporrer's purchase was not an arm's-length transaction and, without making adjustments, the purchase price was not indicative of the property's fair market value. Sporrer failed to prove by a preponderance of the evidence that his property is over-assessed and the fair market value of the property as of January 1, 2011.

Therefore, we affirm the property assessment as determined by the Board of Review to \$153,300. representing \$37,200 in land value and \$116,100 in dwelling value as of January 1, 2011.

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

Dated this 18 day of December 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Chair

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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>12-18</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	<u>[Signature]</u>