

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Michael D. Nyman,**  
Petitioner-Appellant,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-77-0917**  
**Parcel No. 181/00553-070-950**

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On November 29, 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 Michael D. Nyman requested his appeal be considered without hearing. He was self-represented. Assistant County Attorneys David Hibbard, Ralph E. Marasco, Jr., and Anastasia Hurn represented the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Michael D. Nyman, owner of property located at 1505 NW Wagner Boulevard, Ankeny, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a two-story dwelling with 2098 square feet of living area and a 1037 square-foot unfinished basement built in 1995. It has a 192 square-foot deck and a 690 square-foot attached garage. It has a good quality (3+05) construction grade and is in normal condition. The improvements are situated on 0.225 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$208,100, representing \$33,800 in land value and \$174,300 in dwelling value.

Nyman protested to the Board of Review by filling in information on in the section for error claims. However, it appears clear from the language of his protest that he was claiming his property is

assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). His Board of Review petition states that his “[a]ssessment is too high.” He asserted that property values in Ankeny dropped 3.2% and his assessment should not have increased. The Board of Review denied the protest because “insufficient information was provided in support of protest.”

Nyman then filed his appeal with this Board based on the same ground. He requested a 3.2% reduction in the assessed value of his property to reflect a decrease in Ankeny property values, which he claims the Des Moines Register reported in an article dated April 4, 2011. Nyman did not supply a copy of this article to this Board or to the Board of Review. He asserts his assessment actually increased 3% instead.<sup>1</sup>

Nyman did not provide any additional evidence to this Board to support his claim.

The Board of Review relied solely on evidence already in the record, including the Board of Review Appraiser Analysis. The Board of Review Appraiser provided a list of properties in Nyman’s neighborhood, including properties sold from 2009 to 2011. Like the subject property, eight of the sale properties were two-story dwellings built in the 1990s. The unadjusted sale prices ranged \$190,000 to \$330,000, or \$89.96 per square foot to \$113.59 per square foot. The assessments ranged from \$197,000 to \$319,200, or \$89.42 to \$108.80 per square foot. While these values are unadjusted, Nyman’s \$99.19 per square foot assessment falls within the range of both the sale prices and assessments. Further, we note the assessments for these sale properties increased between 2010 and 2011 on average 1.19%, roughly equivalent to Nyman’s assessment increase. This calculation does not take into account the assessment changes in properties not sold from 2009 to 2011. The property information is summarized below.

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<sup>1</sup> Nyman’s assessment actually only increased 1.3%.  $(208,100 - 205,400) / 205,400 = 1.3\%$

Neighborhood Sales	Year Built	Living Area	Sale Date	Sale Price	Price PSF	2011 AV	AV PSF	2010 AV	Change in AV
Subject	1995	2098				\$208,100	\$99.19	\$205,400	1.31%
1501 NW Campus Dr.	1992	2048	4/5/10	\$227,000	\$110.84	\$212,100	\$103.56	\$214,800	-1.26%
1505 NW Campus Dr.	1992	2148	6/23/10	\$244,000	\$113.59	\$233,700	\$108.80	\$235,800	-0.89%
1410 NW Parkridge Pl.	1994	2199	5/4/11	\$229,000	\$104.14	\$220,900	\$100.45	\$218,800	0.96%
1502 NW Wagner Blvd	1993	2112	7/7/09	\$190,000	\$89.96	\$225,800	\$106.91	\$225,100	0.31%
1521 NW Wagner Blvd	1996	2203	7/27/09	\$206,500	\$93.74	\$197,000	\$89.42	\$190,100	3.63%
1533 NW Wagner Blvd	1997	1932	3/19/10	\$205,250	\$106.24	\$204,500	\$105.85	\$202,400	1.04%
610 NW Wagner Ridge Ct	1994	3074	3/16/09	\$330,000	\$107.35	\$319,200	\$103.84	\$322,900	-1.15%
613 NW Wagner Ridge Ct	1995	2434	7/29/09	\$275,000	\$112.98	\$255,900	\$105.14	\$239,500	6.85%

Nyman failed to provide any evidence to support his claim. Viewing the record as a whole, we find the preponderance of the evidence does not support Nyman's claim his property was over-assessed 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.* 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).

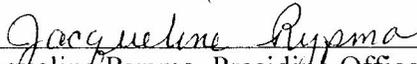
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment 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. Nyman did not demonstrate that his property is over-assessed and failed to supply any evidence to support his claim of over-assessment. He points to a Des Moines Register article indicating assessed values in Ankeny declined by 3.2% as a basis for his over-assessment claim, but failed to actually provide the article to substantiate his claim. We note that while the aggregated value of assessments in Ankeny may have declined from 2009 to 2011, assessment changes in Nyman's neighborhood may differ from that of Ankeny in general. Further, the Board of Review Appraiser Analysis tends to support the subject property's 2011 assessment. Additionally, Nyman did not produce any evidence establishing the subject property's correct value.

Nyman 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 \$208,100, representing \$33,800 in land value and \$174,300 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.

Dated this 18 day of December 2012.

  
Jacqueline Rypma, Presiding Officer

  
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>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	