

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jaime Mann,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0932
Parcel No. 100/09425-005-000

On December 4, 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. Petitioner-Appellant, Jaime Mann, was represented by her father, Douglas Mann, at hearing. Assistant County Attorney Ralph Marasco, Jr. represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jaime Mann is the owner of property located at 3908 49th Street, Des Moines, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$129,300, representing \$28,500 in land value and \$100,800 in improvement value. Mann protested the assessment to the Polk County Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); and that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). She asserted the correct value is \$118,500.

The Board of Review denied the protest on the ground that the property was assessed at its fair market value.

Mann then appealed to this Board reasserting her claims but now argues the correct value of the subject property is \$94,600, allocated \$28,500 to the land and \$66,100 to the improvements.

According to the property record card, the subject property is a split-level, single-family home built in 1951. It has 980 square feet of above grade living area and 500 square feet of finish in the basement. Additional features include a 308 square-foot, detached garage built in 1970; a 320 square-foot patio; a small enclosed porch; and, a small deck area. It sits on a 0.318-acre site.

On her petition to the Board of Review, Mann stated that she paid \$66,100 for the subject property on December 10, 2011. We note that the property record card indicates Mann purchased the subject property from the Federal Home Loan Mortgage Corporation on November 10, 2010. A foreclosure sale, such as this one, is not an arm's-length transaction and is not indicative of the property's value without adjustments.

Mann provided the addresses of two properties in Des Moines that she considered similar to her property, and also included the subject property as a third equity comparable. Her form was completed as follows:

<u>Tax/District Parcel</u>	<u>Address</u>	<u>Assessment</u>
100/00430-000-000	4124 52nd Street	\$110,000
100/07493-000-000	3506 50th Street	\$99,000
100/09425-005-000	3908 49th Street (Subject)	Purchase price \$66,000 on 12-10-11

The record indicates the assessed value of 4124 52nd Street is actually \$112,300, and the assessed value of 3506 50th Street is \$115,800. Mann did not provide a market value for either of the properties and did not complete an equity analysis using these properties. Therefore, we give this data no consideration.

Mann provided a portion of an appraisal report completed on the subject property. The report was written by David R. Conn of David Conn Appraisal, Waukee, Iowa. It has an effective date of December 27, 2011, and concludes a value of \$123,000. Mann initially provided only two pages of the

appraisal but this Board requested the full appraisal at hearing. Subsequently, Mann provided seven pages of the report. In the copy sent to this Board, there is a hand-written note stating that the “appraisal (was) done after remodel.”

The appraisal’s supplemental addendum states the “subject was purchased approximately a year ago and has received updating since that time. Subject has new windows, new bathroom, and new interior paint.” Conn’s value of \$123,000 included this remodeling. We note it would be a very rare instance where updating and remodeling a property would decrease its value.

Conn developed the sales comparison approach and analyzed three sales. They all sold in spring/summer 2011, after the the relevant date of this appeal January 1, 2011. After adjustments, the sales ranged from \$118,911 to \$134,100. Conn also developed the cost approach to value, and opined a value of \$139,661 by that method of analysis. We find that Conn’s appraisal is a well-reasoned conclusion of the property’s value as of December 27, 2011.

The fact that Conn’s value is approximately \$6000 less than the assessed value, even after updating, leads us to believe the property was over-assessed as of the January 1, 2011 assessment date. There is no evidence in the record to suggest a change in market conditions from January 1, 2011, to December 27, 2011. Rather, the appraisal indicates that “the number of sales and values have remained stable over the past 12 months. The market appears to be stable.” Although the appraisal of the as-updated property was completed a year after the assessment date, it occurred in similar market conditions and values the property below the assessed value. Therefore, it supports the opinion the subject property was over-assessed as of January 1, 2011. While Mann did not conclusively establish a value for the January 1, 2011, assessment date, she did provide sufficient evidence demonstrating that it could not have been more than \$123,000; and it may have been less.

The Board of Review relied on an Appraiser Analysis that considered five sales and compared them to the subject property. The sales occurred between February 2009 and September 2010, and

ranged from \$67,000 to \$140,000. The appraiser adjusted the sales and concluded an opinion of \$134,260 for the subject property. The analysis included adjustments based on cost rather than the market. Further, the analysis used multiple comparables that required significant adjustments. As such, we give this limited consideration.

Based on the information in the record, we find that Mann has demonstrated the subject property's fair market value as of January 1, 2011, would not have been more than \$123,000, and therefore has supported a claim the subject property was 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). 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 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).

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. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (1965). 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.* at 579-80. 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).

Mann did not provide sufficient evidence to support an equity claim under either test. Mann did not argue or provide any evidence that the assessor applied an assessing method in a non-uniform manner. Additionally, Mann did not produce evidence of both the actual and assessed values of her comparable properties in order to conduct an equity analysis under *Maxwell*. Her Board of Review petition inaccurately lists the assessed values of her comparables and does not include evidence of their actual value. Although Conn’s appraisal concludes an adjusted sales price of the comparables, the record does not include any evidence of their assessed values.

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.

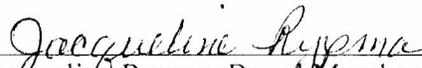
Mann provided an appraisal concluding that the subject property's value is \$123,000, including recent updates. Despite the appraisal having an effective date of nearly a year after the January 1, 2011, assessment, it values the property after updating and very rarely would improvements to a property decrease its value. Further, the evidence indicates that market conditions did not change from the January 1, 2011, assessment date to the December 27, 2011, appraisal date. As such, logic dictates the subject property could have been worth no more than \$123,000 as of the January 1, 2011, assessment and was over-assessed.

THE APPEAL BOARD ORDERS the assessment of Jaime Mann's property located at 3908 39th Street, Des Moines, Iowa, of \$129,300, as of January 1, 2011, is modified to a total value of \$123,000, allocated as \$28,500 in land value and \$94,500 in improvement value as of January 1, 2011. The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 2 day of January, 2013.



Karen Oberman, Presiding Officer



Jacqueline Rypma, 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>1-2</u> , 2013	
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	