

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Douglas Mann,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 11-77-0933**  
**Parcel No. 181/00210-028-001**

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, Douglas Mann, was self-represented. Assistant County Attorney Ralph E. 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*

Douglas Mann is the owner of property located at 418 SW Ash Drive, Ankeny, Iowa. The real estate was classified residential on the January 1, 2011, assessment and valued at \$137,700, representing \$35,300 in land value and \$102,400 in improvement value. Mann protested the assessment to the Polk County Board of Review 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 authorized by law under section 441.41(1)(a)(2); and 3) that there was a downward change in value under section 441.37(1)(b) and its reference to section 441.35(2). We note 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). Mann asserted the correct assessment was \$132,500. The Board of Review denied the protest.

Mann then appealed to this Board re-asserting his claims. Mann now asserts the correct value of the subject property is \$110,250, allocated \$35,300 to the land and \$74,950 to the improvements.

According to the property record card, the subject property is a one-story, brick, single-family home built in 1959. It has 1272 square feet of above grade living area and 972 square feet of unfinished basement. Additional features include a 576 square-foot, detached garage and a 322 square-foot deck. It sits on a 0.226-acre site.

On his petition to the Board of Review, Mann provided the addresses of three properties in Ankeny that he considered similar to his property. He supplemented this list with additional properties at hearing. The properties Mann considers comparable to his are as follows:

<b>Address</b>	<b>2011 Assessment</b>	<b>Sale Date</b>	<b>Sale Price</b>
810 SE Belmont Drive	\$120,100	11/23/2010	\$124,500
1202 NW 4th Street	\$143,900	11/18/2010	\$121,000
409 SW Logan Street	\$130,000	6/1/2010	\$130,000
514 SW Ash Drive	\$104,500	5/27/2010	\$103,500
708 SW 4th Street	\$123,800	2/22/2011	\$99,000

Mann provided property record cards for 514 SW Ash Drive and 708 SW 4th Street at the Appeal Board hearing. These are both one-story homes like the subject. 514 SW Ash Drive also has a full brick exterior like the subject; however, it is in below-normal condition and has 1428 square feet of total living area. In comparison, the subject is in normal condition and has 1272 square feet of total living area. There were no adjustments made for these differences and we do not consider it similar.

The property located at 708 SW 4th Street does not have a full brick exterior but is more similar in size to the subject with 1248 square feet of total living area and is in normal condition. This property, other than lacking the brick exterior, appears to be similar to the subject. It sold, in what

appears to be an arms' length transaction in 2010, for \$99,000. It has a 2011 assessment of \$123,800. This results in a 1.25 assessment to sales price ratio.

Mann did not offer any testimony about the market value of the subject property of January 1, 2011, by adjusting comparable sales to arrive at a market value for the subject property. As previously noted, the sales he did provide had differences between them and the subject property that likely would require dollar adjustments to the sale prices to arrive at a market value for his property.

The Board of Review relied on an appraiser analysis completed prior to its consideration of the protest. The appraiser analyzed Mann's first three comparable properties (810 SE Belmont Drive, 1202 NW 4th Street, and 409 SW Logan Street). The appraiser did not consider 810 SE Belmont similar to the subject as it has a smaller total living area, 912 square feet, compared to the subject's 1272 square feet. Additionally, the subject property is an all brick home and 810 SE Belmont Drive does not have any brick exterior. 1202 NW 4th Street is a split-level home and 409 SW Logan Street is a one-and-a-half story home whereas the subject is a one-story design. For these reasons, the appraiser did not consider them similar to the subject property.

The analysis also considered three sales, chosen by the appraiser, located at 421 SW Ash Drive, 410 SW Ash Drive, and 406 SW Ash Drive. The appraiser concluded these properties' assessments supported Mann's assessment. All of the properties are one-story, brick homes with total living areas ranging from 1296 to 1323 square feet. All were built in 1959 and have normal condition ratings. They have assessed values ranging from \$132,100 to \$144,700. Of all the comparable properties in the record, we find these are the most similar to the subject. Additionally, we note the subject's assessed value of \$137,700 falls within the assessed value range of these three properties. However, none of the properties were sales and their market values were not provided. Therefore, an equity ratio analysis cannot be developed.

### *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).

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 (Iowa 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 this 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. While Mann offered a total of five comparable properties for an equity claim, we find that ultimately only one property was sufficiently comparable to the subject property. The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell*, 257 Iowa at 581, 133 N.W.2d at 712. This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.* Because Mann essentially provided only one equity comparable, he failed to prove his inequity claim.

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 did not provide any evidence regarding the subject property's correct market value as of January 1, 2011.

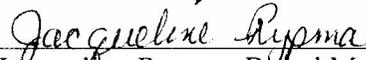
Therefore, we determine the property's assessed value as of January 1, 2011, is \$137,700, representing \$35,300 in land value and \$102,400 in dwelling value.

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

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 type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u></u>