

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason Andrew McKeever,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0967
Parcel No. 241/00993-820-078

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, Jason Andrew McKeever, was self-represented and requested a written consideration. Assistant County Attorneys David Hibbard, Ralph 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

Jason Andrew McKeever is the owner of property located at 7402 Moonlight Drive, Johnston, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$216,500, representing \$62,300 in land value and \$154,200 in improvement value. McKeever protested the assessment to the Polk County Board of Review on the ground that there was an error in the assessment under Iowa Code section 441.37(1)(a)(4). In his error claim, McKeever states the “[p]urchase price of the lot was \$37,900. Similar lots around are selling for \$39,900 to \$42,900. [I] feel [the] land assessment of \$62,300, is too high.” Based on this statement, we believe McKeever was asserting a claim that the property’s land was assessed for more than the value authorized by law under

section 441.37(1)(a)(2). The Board of Review, however, denied the protesting asserting the assessment was equitable under section 441.37(1)(a)(1).

McKeever then appealed to this Board asserting a claim of equity. Although we believe his original error claim was essentially a claim of over-assessment, McKeever did not provide any evidence of over-assessment to the Board of Review or to this Board. In addition, both his appeal to this Board and the evidence he submitted with his appeal are in regards to a claim of equity only. Based upon the language of its denial, it also appears the Board of Review considered McKeever's claim to be an equity claim. As such, we only consider an equity claim. His claim is limited to the subject property's land value.

According to the property record card, the subject property is a one-story, single-family home built in 2009. It has 1658 square feet of above grade living area and a full, unfinished basement. Additional features include a 792 square-foot attached garage; a 120 square-foot patio; a 120 square-foot deck, and a 42 square-foot open porch. It sits on a 0.344-acre site.

Other than McKeever's short comment on his petition to the Board of Review, he did not provide any evidence to support his claim. To this Board, McKeever provided a list of assessed values for the sites of ten properties on his street and within his development that he considers comparable. The assessed values of these lots range from \$49,600 to \$54,900, with a median assessed value of \$49,700. A comparison of McKeever's comparables with a listing of neighborhood parcels provided to the Board of Review indicates that at least six of his ten comparables are unimproved properties.¹ Four of the six unimproved lots are of similar size as the subject property, but are assessed under \$50,000. McKeever provided no description of these properties to allow comparison of topography, location in the development or view. Additionally, McKeever did not establish the market value of these sites through actual sales.

¹ No information was provided about the four remaining comparables.

The Board of Review relied on an Appraiser Analysis. The Analysis indicates that McKeever relied on vacant land sales, some of which were lower due to the slow housing market. It states that the subject property's land "is valued the same as others in the area." The appraiser analysis further concludes that the total assessed value of McKeever's property is supported with current sales.

We note there may be differences in the assessed value of vacant sites and improved sites. An improved site is used in conjunction with an existing structure and has site improvements. Site improvements include grading and topsoil, landscaping, trees and shrubs, etc. Under the *2008 Iowa Real Property Appraisal Manual*, an unimproved adjustment factor is applied to all unimproved properties to account for the lack of these site improvements. (pp. 2-4, 2-5) This downward adjustment could explain the difference in McKeever's assessed land value compared to vacant sites.

This conclusion is supported by evidence included with the Appraiser Analysis indicating improved sites in McKeever's neighborhood are assessed at the same or approximately the same amount as the subject property. For instance, 7336 Moonlight Drive and 7401 Dusk Drive are adjoining, improved properties that have the same assessed land value (\$62,300) as the subject property. Other improved properties along Moonlight Dr. have assessed land values that exceed the subject property.

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 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 property's assessed value 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 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."

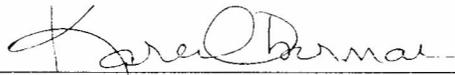
Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* at 579-80. The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1).

McKeever failed to show his property is inequitably assessed under either test. First, he did not provide any evidence that the assessor applied an assessing method in a non-uniform manner. Second, he did not produce evidence as to the size, topography, location, or views of his comparables to demonstrate they are similar to the subject property. His comparables appear to be unimproved properties which, due to lack of site improvements, are properly assessed less than improved sites. Further, he did not establish the actual value of his comparables to allow for an equity analysis under *Maxwell*.

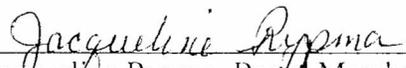
Therefore, we determine the property's assessed value as of January 1, 2011, is \$216,500, representing \$62,300 in land value and \$154,200 in dwelling value.

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

Dated this 18 day of December 2012.



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>12-18</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	