

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Reva J. Henry,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0974
Parcel No. 080/05349-000-000

On February 20, 2013, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Reva J. Henry was self-represented. Assistant County Attorney Ralph Marasco, Jr. represented the Polk County Board of Review at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Reva J. Henry is the owner of a residential, single-family property located at 1716 9th Street in Des Moines, Iowa. The property is a two-story home built in 1900 with 3079 square feet of total living area. It also has a total of 877 total square feet of unfinished basement and 515 total square feet of unfinished attic space. The home also has a 98 square-foot open porch and a 45 square-foot deck. The home is of high quality (2+00) grade and in below normal condition. The site is 0.22 acres.

Henry protested to the Polk County Board of Review regarding the 2011 assessment of \$139,300, which was allocated as follows: \$9,000 in land value and \$130,300 in improvement value. Her claim was based on the following grounds: 1) that the assessment was not equitable as compare 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 the value authorized by law under section 441.37(1)(a)(2); and 3) that there has been a downward change in value under sections 441.37(1)(b) and 441.35(2), essentially asserting the property is over-assessed. She asserted the subject property's correct value was \$56,000, as is. The Board of Review lowered the assessment to \$93,400 after changing the property's condition from 'Above Normal' to 'Below Normal.'

Henry then appealed to this Board essentially re-asserting her claims. She contends the correct value is \$78,000, allocated as \$9,000 in land value and \$69,000 in improvement value.

Henry submitted documentation of the property's condition. A copy of an email from Deb Bruce of the Des Moines Fire Department indicates that fires were reported at the subject property on four separate dates from May 10, 1987 to May 22, 1997. Henry also submitted undated photographs which show fire damage and a general lack of completed finishings throughout the home, including door and window trim and cabinet doors. These photographs support the Board of Review's determination that the subject property's condition is "Below Normal."

There is also a handwritten comment with the photographs which states, "[e]stimate to complete project for restoration would be \$75,000 to \$100,000." Henry testified at hearing that she cannot afford to complete the restoration at this time, but hopes to do so in the future. On cross-examination, Henry stated that she does not have a written estimate verifying the cost to complete the restoration.

Henry also testified that an appraiser from the assessor's office inspected the subject property, including the interior, when she protested to the Board of Review. It was after this inspection the Board of Review agreed to lower the assessment to \$93,400.

Henry supplied four equity comparables of the same vintage as the subject property to the Board of Review. These properties are summarized below.

Comparable	Address	Living Area	Condition	Assessed Value¹
Subject		3079	Below Normal	\$93,400
1	1624 Oakland Ave	3438	Below Normal	\$71,900
2	1330 9th St	2893	Very Good	\$158,500
3	1711 10th St	3189	Poor	\$59,200
4	1730 7th St	3248	Below Normal	\$89,700

Deputy Assessor Amy Rasmussen testified on behalf of the Board of Review. While she did not personally inspect the subject property, Rasmussen testified that a representative of the assessor’s office inspected the property and afterwards the property’s condition was changed from ‘Above Normal’ to ‘Below Normal’ and fifteen percent functional obsolescence was added for deferred maintenance to the property.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed or over-assessed. We suggest, however, that Henry contact the assessor’s office should the condition of her property deteriorate further to arrange for another inspection.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. 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, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or

¹ There were no adjusted sales comparisons for analysis so we are limited to comparing only the assessed value of these homes.

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). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

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. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 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*, 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.

Henry did not supply any evidence that the assessor applied an assessment method in a non-uniform manner to the subject property. Additionally, she did not provide evidence of her comparables' market values for comparison with their assessed values. This evidence is required in order to conduct a sale-ratio analysis under *Maxwell*. For these reasons, we find that Henry has failed to meet her evidentiary burden to succeed on her 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 taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Henry provided photographic evidence verifying the subject property's 'Below Normal' condition. However, that evidence is insufficient to show that the property's assessment is excessive or to prove its fair market value. Henry did not provide an appraisal or adjusted sale prices of comparable properties from which this Board can determine the subject's fair market value. Although Henry claims that she would need to incur significant renovation expenses for the property to be worth its assessed value, Henry did not provide an estimate or quote to verify her assertion.

We, therefore, affirm the assessment of Henry's property located at 1716 9th Street in Des Moines, Iowa of \$93,400, allocated \$9000 in land value and \$84,400 in improvement value. We would also suggest Henry contact the Assessor's office for the 2013 assessment.

Dated this 4 day of March 2013.

Stewart Iverson
Stewart Iverson, Presiding Officer

Jacqueline Rypma
Jacqueline Rypma, Board Member

Karen Oberman
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>3-4</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>[Handwritten Signature]</u>