

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Steven J. Evans,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 11-77-1072**  
**Parcel No. 080/02460-000-000**

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On January 28, 2013 the above captioned appeal came for a hearing before the 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. The Appellant Steven J. Evans was self-represented and requested an oral hearing. The Polk County Board of Review was represented by Assistant County Attorney David Hibbard. Both parties submitted evidence. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

Steven J. Evans is the owner of a residential, single-family property located at 2620 Adams Avenue, Des Moines, Iowa. According to the property record card, the subject property is a ranch dwelling built in 1939. The property has 888 square-feet of living area and a full, unfinished basement. The improvements are of average grade (4-05) in normal condition. The property is also improved by a 216 square-foot detached garage and a 104 square-foot open porch. The site is 0.233 acres.

Evans protested to the Polk County Board of Review regarding the 2011 assessment of \$85,000, allocated as \$21,100 in land value and \$63,900 in improvement value. The claim was based on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied Evans' appeal stating, "[t]he assessed value of this

property was not changed because market data indicates that the property is assessed at its fair market value.”

Evans appealed to this Board re-asserting his over-assessment claim. On his Notice of Appeal & Petition, Evans requests the assessment be reduced to \$48,000, allocated as \$21,100 in land value and \$26,900 in improvement value. He states that “the property was purchased in an arms-length, broker-assisted transaction in January 2011 for \$48,000. Comparable sales also support the purchase price as market value.”

Evans testified that his purchase of the subject property was through a short sale<sup>1</sup> in January 2011. He testified that the seller’s lender, Wells Fargo, completed an appraisal on the property which showed its value to be \$50,000. This appraisal was not submitted by Evans to this Board as evidence in this appeal and therefore we are unable to draw a conclusion as to whether or not it is a reliable indicator of the subject’s fair market value.

Evans offered six comparable sales in support of his appeal. Of his comparables, three were sales due to foreclosure and one was an estate sale. Under 441.21(1)(b)(1), sale prices of properties in abnormal transactions, such as foreclosures and estate sales, are not to be taken into account unless adjusted to eliminate any distorting effect on market value. Because four of his six comparables were abnormal transactions and Evans did not make adjustments to account for distorting factors, we only consider his two remaining comparables (2405 Prospect Road and 2500 Prospect Road) in evaluating his claim. 2405 Prospect Road sold in April 2010 for \$51,500, or \$71.53 per-square-foot. 2500 Prospect Road also sold in April 2010 for \$72,500, or \$72.21 per-square-foot. Meanwhile, the subject property is assessed at \$85,000, or \$95.72 per-square-foot. However, these properties were not adjusted to account for differences between them and the subject property, such as living area, condition, and quality.

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<sup>1</sup> A short sale usually occurs when the sale price is less than the amount the seller owes on the property.

Deputy Assessor Jim Willet testified on behalf of the Board of Review. Willet testified that although Evans' comparables are located in the same vicinity, several of them are considered abnormal transactions. He further testified that while 2405 Prospect Road was of similar age and is in better condition, it has less square footage and is of lesser quality construction. Regarding 2500 Prospect Road, Willet testified that it is of similar age and condition as the subject property, but 2500 Prospect has more living area. He stated that he did not believe that an analysis of Evans' comparables supports a reduction in the subject property's assessed value.

The record evidence also contains the Board of Review Appraiser Analysis completed by Richard Colgrove. Colgrove utilized three arm's length sales as comparables and, after adjustment, those comparables indicated the subject property's value at \$88,300. The Appraiser Analysis and the property record card also indicate the subject property sold for \$93,000 in an arm's length transaction in March 2009. This evidence, along with Willet's testimony, supports the 2011 assessment.

Based on information in the record, we find that Evans has not provided sufficient evidence to sustain his burden of showing the property is over-assessed as of January 1, 2011. Given the evidence of foreclosures in this area, however, we recommend the Board of Review re-assess the subject property as of January 1, 2013, to ensure the 2013 assessment accurately reflects market value.

### *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 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. *Id.* 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).

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).

Iowa Code section 441.21(1)(b)(1) provides that in arriving at market value, sale prices of properties in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). It goes on to provide a non-exclusive list of abnormal transactions, including foreclosure or other forced sales. § 441.21(1)(b)(1). By statute, the property's short sale price and the abnormal sales transactions of Evans' comparables cannot be used in determining the property's market value unless appropriate adjustments are made. Evans did not make these adjustments to his property or to any other properties he asserted were comparable. He also did

not make adjustments to account for differences in living area, condition, and quality between the subject property and his comparables at 2405 Prospect Road and 2500 Prospect Road. Further, Willet testified that an analysis of these properties did not support a reduction of the subject property's assessed value. The preponderance of the evidence does not indicate that the subject property's assessment is excessive.

Additionally, Evans did not provide sufficient evidence establishing the property's correct value. Evans asserts the property's correct value is its sale price, \$48,000. However, this Board is precluded from considering this sale price because it resulted from an abnormal, short-sale transaction, which has not been adjusted to account for distorting factors. § 441.21(1)(b)(1); *Riley*, 549 N.W.2d at 290. Evans testified that an appraisal was completed at the time of the sale, but did not offer the appraisal into evidence and, without the ability to review the appraisal, this Board is unable to conclude that its value conclusions reflect the property's fair market value.

For these reasons, the Board finds that Evans has not provided sufficient evidence to support his over-assessment claim. THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 5 day of February 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>2-5</u> , 2013	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>John Adams</i></u>