

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Brandon Corrigan,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1087
Parcel No. 320/04949-571-542

On January 15, 2013, 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 Brandon Corrigan was self-represented. Assistant County Attorney Ralph Marasco, Jr. is counsel for the Board of Review and represented it at hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Brandon Corrigan, owner of property located at 3405 Woodland Avenue, Unit 66, West Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, third-floor, condominium unit having 1035 total square feet of living area, a deck, and one assigned parking space. The property was built in 1970 and was remodeled in 2007 and converted from a commercial apartment building to a condominium regime in 2008. It is in above-normal condition, and has a 4-00 (average) quality construction grade.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$97,900, representing \$8,200 in land value and \$89,700 in dwelling value.

Corrigan protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2).

Initially, Corrigan received a recommendation from the Board of Review appraiser to reduce the assessment to \$52,500. Subsequently, the Board of Review denied the protest and the recommendation was revised, after the fact.¹

Corrigan then appealed to this Board and sought an assessment of \$52,500, representing \$4500 in land value and \$48,000 in dwelling value.

He testified Woodland West Condominiums consists of four commercial apartment buildings that formerly housed state-subsidized, low-income tenants. The buildings were converted to condominiums in 2008. Corrigan describes them all as run down.

Corrigan purchased the property from Federal Home Loan Mortgage Corporation in January 2011, for \$52,500. He testified that a month or two after he purchased the subject, twenty units were sold for approximately \$46,000 per unit. Corrigan further testified that another forty-eight units were sold for an average price of \$25,000 to \$28,000 per unit, with individual purchases as high as \$49,000. He stated that his purchase price was one of the highest. No further evidence was provided regarding the nature of these transactions and thus this Board cannot determine if they were normal, arm's length transactions.

Corrigan reported two of the buildings were sold in February 2011. According to the certified record, Woodland West Associates, LP purchased forty-eight units for \$960,000. Newbury Management, Co. also made a multi-parcel purchase of approximately seventeen units for \$940,000. The certified record does not contain and Corrigan did not provide any other evidence of comparable, arm's length sale transactions.

¹ Deputy Assessor Paul Humble testified that this was an error on the part of the appraiser and that the recommendation should not have been changed after the Board of Review denied the protest.

While the purchase price of a property in a normal, arm's length transaction should be considered, along with other comparable sales, Corrigan's purchase from a lender is considered abnormal. Without adjustment for any distorting effect of the foreclosure purchase, we cannot rely on the purchase price as a reliable indicator of fair market value. § 441.21(1)(b)(1); *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996).

The certified record includes a list of neighborhood properties with basic assessment information and recent sales. The only units in Corrigan's complex with sales data are the multi-parcel sales in February 2011, which are also considered abnormal transactions. A review of this document indicates other 1035 square-foot units, built in 1970 with the same land value, and in above-normal condition range in assessed value from \$88,400 to \$97,900. Comparable units in normal condition owned by Woodland West Associates are assessed at \$20,000. The difference in assessments due to the condition change from normal to above-normal condition seems extremely disproportionate. We urge the Board of Review to review these properties, including the Corrigan unit, to assure fair and equitable assessment.

Based on the minimal evidence in the record and the testimony at hearing, there is some indication that Corrigan's property is over-assessed. However, he did not offer any reliable evidence to show its fair market value. His burden requires proof of over-assessment and proof of the property's fair market value. Because his purchase was not a normal arm's length transaction, without adjustment, we cannot rely on the sale price as a reliable indication of its fair market value, nor was there evidence of normal sales to use as comparables.

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). Corrigan relied on the sale of the subject unit as an indication of the property's fair market value. Section 441.21(1)(b) provides that a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. § 441.21(1)(b)(1); *Riley*, 549 N.W.2d at 290. Because Corrigan's property was purchased as a distress sale and this distorting factor was not clearly accounted for, we are precluded by law from considering the sale price as an indicator of the property's market value. The multi-parcel purchases also are considered abnormal

sales and, without adjustment, cannot be utilized in determining the subject property's market value. Corrigan did not supply an appraisal or adjusted sales data of properties in normal, arm's length transactions from which this Board can determine the property's fair market value. Viewing the record as a whole, Corrigan failed to prove by a preponderance of the evidence his property is assessed for more than authorized by law.

Therefore, we affirm Corrigan's property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$97,900, representing \$8200 in land value and \$89,700 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 4 day of February 2013.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Stewart Iverson
Stewart Iverson, Board Chair

Karen Oberman
Karen Oberman, Board Member

Copies to:

Brandon Corrigan
5663 Foxboro Road
Johnston, IA 50131-8803
APPELLANT

Ralph Marasco, Jr.
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEY FOR APPELLEE

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>2-4</u> , 201 <u>3</u> .	
By	<input 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>[Signature]</u>