

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Greg & Sara Payne,**  
Petitioners-Appellants,

v.

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

**ORDER**

**Docket No. 11-77-1092**  
**Parcel No. 291/00367-314-000**

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On October 2, 2012, 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 Appellants Greg and Sara Payne were represented by Kevin Huerkamp, Iowa Assessment Advisors, Urbandale, Iowa. Assistant County Attorney David Hibbard was counsel for the Polk County Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Greg and Sara Payne are the owners of a residential, single-family property located at 1676 NW 131st Street, Clive, Iowa. The property is a two-story home, built in 1991, and has 2911 square feet of total living area. The property has a full, unfinished basement. Additionally, the dwelling has a 284 square-foot deck and a 730 square-foot, three-car, attached garage. The site is 0.316 acres.

The Paynes protested to the Polk County Board of Review regarding the 2011 assessment of \$362,400, allocated \$62,400 to land value and \$300,000 to dwelling value. They claimed that the assessment was not equitable as compared with the assessments of other like property under

Iowa Code section 441.37(1)(a)(1). The Board of Review granted the protest, in part, reducing the assessment to \$347,800, representing \$62,400 in land value and \$285,400.

Paynes then appealed to this Board reasserting their claim. They asserted the correct market value of their property is \$319,900, allocated as \$62,400 in land value and \$257,500 in dwelling value.

Real estate agent Kyle Huerkamp of Iowa Assessment Advisors testified regarding the Paynes' property assessment. He asserts the Paynes intended to raise a market value claim and the only lines for listing comparable properties was in the equity section. We are limited to grounds plead before the Board of Review. Because the Board of Review protest form and its action (Exhibit 2) both indicated only an equity ground was considered, we will not consider an additional ground based on market value.

On their protest form to the Board of Review, the Paynes supplied the parcel number, address, and assessment of four properties.

<u>Tax District/Parcel</u>	<u>Address</u>	<u>Assessment</u>
291/00367-316-000	1648 NW 131st	\$329,100
291/00367-350-014	1582 NW 131st	\$316,200
291/00367-326-000	13050 Lincoln Avenue	\$313,500
291/00367-345-000	12844 Lincoln Avenue	\$317,200

None of these properties sold recently, and we are unable to form a judgment concerning the sales/assessment ratio in the Huntington Ridge subdivision.

In their petition to this Board, they allege property values in Huntington Ridge, the subject property's subdivision, have dropped significantly. They provided two analyses prepared by Iowa Assessment Advisors comparing similar properties that sold in 2009, 2010 and 2011 (Exhibit 4), and a comparison of the subject property to other similar two-story properties that

were given a reduction by the Board of Review (Exhibits 5 A-D). Paynes report the Board of Review gave an average reduction of 9.6%<sup>1</sup> to properties in their subdivision in 2011.

At hearing, the Paynes offered additional evidence. Huerkamp explained his chart (Exhibit 4) identifying nine comparable sales in Huntington Ridge and similar subdivisions. The sales occurred between June 2009 and May 2011. Six of the sale properties were in Huntington Ridge and the other three were in nearby subdivisions. Comparable 5 occurred after the assessment date and Comparable 8 occurred in 2009. The seven sales that occurred between March and October 2010 (Exhibit 4) are more reflective of the value as of January 1, 2011. Huerkamp also prepared a list of comparable properties (Exhibit 6) that sold after the assessment date. These sales are not relevant to the January 1, 2011, assessment at issue.

Based on the pictures and data presented, they all appear to be reasonably similar properties. The sales prices ranged from \$272,000 to \$342,000. While the sales are thoroughly described, the adjustments do not appear to be market oriented or supported. When questioned how he arrived at the adjustments, Huerkamp explained he used the assessor's cost numbers for the specific adjustments. He stated his adjustments were based on the costs from the subject property's assessment. Where he did not have costs for the subject property, he substituted a comparable property's cost estimate. He also applied other atypical methodology in his adjustments.

As an example of the cost adjustments, Huerkamp made a \$1953 downward adjustment to one comparable for having a three-car garage that was 62 square feet larger than the subject's three-car garage. When questioned if he believed this represented market actions, he indicated it was his belief that "a three-car garage was a three-car garage" and that he was simply applying costs to the differences similar to what the assessor's office did. An example of his atypical

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<sup>1</sup> The Paynes alleged an average deduction of 12.6% on their Board of Review petition (Exhibit 3A).

methodology was adjusting main floor and second floor living areas at different rates. This methodology may be found in a cost analysis, but a sales analysis typically adjusts all above grade living area at a single rate.

We find Huerkamp’s analysis in this case to be unorthodox and unreasonable in this case. Essentially, Huerkamp blended the cost approach and sales comparison approach and arrived at figures that do not appear to have a correlation to the market. We do not consider this to reflect the market actions or result in supported conclusions of market value. As such, we give this data limited consideration. More importantly, this information, in the format it was presented, has little relevance to an equity claim.

To make some use of the evidence the Paynes have provided, and because the only claim before us is whether the property is equitably assessed, we have compared the sales prices of the 2010 sales with their 2011 assessed values (all provided in Exhibit 4) to determine a sales/assessment ratio. This analysis yields a mean and median ratio of 104% indicating the assessments of these select comparables are approximately 4% higher than their respective market values. The following chart sets forth the relevant information.

Address	2010 Sale Prices	2011 AV	Sales/ Assessment Ratio
1626 NW 124th Steet	\$342,000	\$385,600	113%
12991 Sunset Terrace	\$340,000	\$337,100 <sup>2</sup>	99%
13587 Lakeview Drive	\$311,000	\$307,400	99%
2097 135th Street	\$300,000	\$295,300	98%
12806 Hickory Court	\$332,000	\$364,100	110%
13081 Sunset Terrace	\$319,900	\$331,200	104%
12867 Lincoln Avenue	\$305,000	\$325,300	107%

<sup>2</sup> The 2011 assessed value was listed as \$389,900 on Exhibit 4. Exhibit 5D shows the assessment was lower to \$337,100.

Even though the assessments of these comparables indicates a median over-assessment of 4%, the Board of Review has already reduced Paynes' assessment by 4%. This reduction in Paynes' assessment essentially corrected this imbalance.

Huerkamp also presented a spreadsheet of other two-story properties in the Huntington Ridge subdivision that protested their 2011 assessments to the Board of Review and received relief (Exhibit 5). According to Huerkamp's analysis, two-stories in Huntington Ridge received between 0% and 17.5% reduction in their assessments in response to their 2011 protests. Paynes received a greater reduction than some properties and a lesser amount than others. Huerkamp asserted the subject property received only a 4% reduction at the Board of Review, whereas the average reduction in the area, excluding the subject property, was 9.6%.<sup>3</sup> After reductions, the property assessments ranged from \$99.04 to \$123.98 per square foot with an average of \$108.35 per square foot. The subject property's assessment is \$119.48 per square foot, which is within the range of values, but above the average and near the upper end. Huerkamp believes the subject property should be assessed at \$315,396<sup>4</sup> based on this analysis. This information demonstrates the Board of Review reduced many assessments of similar dwellings in the neighborhood, but does not establish an inequity claim.

The Board of Review did not provide any new evidence. It relied upon the certified record, which included an appraiser analysis that recommended a reduction to the Board of Review. The recommendation was based on the development of the cost and the sales comparison approach.

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<sup>3</sup> The average reduction, including the subject property was 8.6%. The average reduction was listed as 12.6% on Property Assessment Appeal Board Petition (Exhibit 3A).

<sup>4</sup>The requested assessment was listed as \$319,900 on PAAB Petition (Exhibit 3A) and on Exhibit 4, and \$306,800 on Exhibit 6.

The Board of Review appraiser Ramaeker's cost analysis recommended a reduction in the assessment to \$347,800 so Paynes' would no longer be the highest assessment in the neighborhood. The analysis relied on the four equity comparables listed on Paynes' Board of Review petition. Ramaeker also indicated Paynes' assessment would be reviewed the following year to remove the whirlpool listing, which is actually a tub.

### *Conclusions 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).

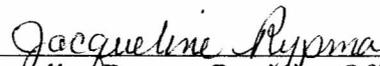
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in

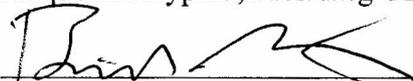
arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

To prove inequity, a taxpayer may show 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 *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.* 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. Paynes did not prove by a preponderance of the evidence that their property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests. The Paynes provided a select group of sales and assessment information from which a sales/assessment ratio was developed. Although the assessments on these properties were somewhat above their market values by a median of 4%, the Board of Review already reduced Paynes’ assessment by 4%, which would have corrected this disparity. The evidence does not show Paynes’ property is assessed higher proportionately than other like property or that different methods were used to assess their property.

THE APPEAL BOARD ORDERS the assessment of Greg and Sara Payne's property located at 1676 NW 2821 131st Street, Clive, Iowa, of \$347,800, representing \$62,400 in land value and \$285,400 as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 5 day of November, 2012.

  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Chair

  
Karen Oberman, Board Member

Cc:

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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>11-5</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	