

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Courtney Stevens,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1095
Parcel No. 292/00861-000-000

On November 26, 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 Courtney Stevens requested her appeal be considered without hearing and submitted evidence in support of her petition. She was self-represented. Assistant Polk County Attorneys David Hibbard, Ralph E. Marasco, Jr., and Anastasia Hurn represent the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Courtney Stevens, owner of property located at 820 65th Street, Windsor Heights, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a one-story brick bungalow with an unfinished attic having 939 square feet of living area built in 1954. The dwelling has full, unfinished basement. It has an average quality (4+05) construction grade and is in above-normal condition. The property is also improved by a 480 square-foot detached garage. The improvements are situated on 0.186 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$113,900, representing \$24,100 in land value and \$89,800 in dwelling value.

Stevens protested to the Board of Review that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the protest.

Stevens then filed her appeal with this Board based on the same ground. She requested a reduction in value to \$80,500, allocated \$10,000 to land value and \$70,500 to dwelling value. She states the flooding from the subject's low elevation, traffic noise, and unattractive view from Interstate 235 are factors contributing to economic obsolescence.

Stevens provided a letter dated April 30, 2011 written by realtor Abe Stevens, Stevens Realty in West Des Moines. Realtor Stevens reported that the appellant purchased the subject property mid-December 2010 for \$80,500 in what he described as an arm's length transaction. He noted the property was listed on the Multiple Listing Service for 48 days prior to the purchase and no other buyers expressed interest. Further, he commented the subject property sits in the lowest point in the neighborhood, which subjects the basement to frequent flooding.

Abe Stevens also prepared a summary of six sales he considered comparable and having between 720 and 1236 total square feet of living area. The sale prices ranged from 67,900 to 87,000 with a median of 77,400; or \$60.28 per square foot to \$94.30 per square foot with a median of 82.63 per square foot. The subject property's sale price was \$85.73 per square foot, within this range. However, its assessed value of \$121.30 per square foot exceeds the upper limits of the comparable sales range. The sales data and conditions were not adjusted to account for differences between the subject property and the comparable properties. Therefore, we give this analysis little weight.

Stevens also offered the cover page of an appraisal completed by Ronald J. Rowley. In Rowley's opinion, the fair market value of the property was \$87,000 as of October 8, 2010. Because we were not provided a full version of the appraisal, we are unable to review Rowley's methodology and analysis. Therefore, we do not give weight to this evidence.

The Board of Review Appraiser Analysis compared five 2009 through 2010 sales of properties deemed similar to the subject property. They ranged in size from 864 square feet to 1016 square feet. Sale prices ranged from \$123,500 to \$136,000, or \$121.56 to \$155.09 per-square foot. The sales were adjusted for differences in living area, quality, basement size, and condition. The subject property's sale price of \$85.73 per square foot and its assessed value of \$121.30 per square foot are below the lower end of this range. The appraiser made cost adjustments to sale prices in an unorthodox method of combining two different approaches. However, considering the unadjusted value on a per-square foot basis, the subject's sale price and its assessed value fall below the lower end of the range.

Additionally, this analysis contradicts Abe Stevens' assertion that the subject property's sale was an arm's length transaction. The appraiser analysis reported the purchase as a foreclosure sale and identified the seller as a lender, the Federal National Mortgage Association (Freddie Mac). Since it was not a normal, arm's length transaction, it is not determinative of the subject's fair market value.

Viewing the record as a whole, we find the preponderance evidence does not support Stevens' claim her property was over-assessed as of January 1, 2011. The subject property's assessment does exceed the purchase price of the property; however, the transaction was the result of a distress sale and not a reliable indicator of its fair market value.

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 that the assessed value is correct. § 441.37A(3)(a).

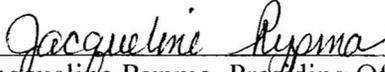
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or 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).

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), there must be evidence 1) that the assessment is excessive and 2) the property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). A sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). In this case, we find the Stevens' purchase was not an arms-length transaction and the purchase price was not indicative of the fair market value of her property. Stevens failed to prove by a preponderance of the evidence that her property is over-assessed and the fair market value of the property as of January 1, 2011.

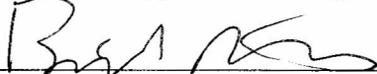
Therefore, we affirm the property assessment as determined by the Board of Review to \$113,900, representing \$24,100 in land value and \$89,800 in dwelling value as of January 1, 2011.

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

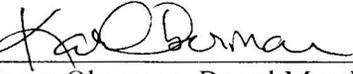
Dated this 29 day of November 2012.



Jacqueline Rypma, Presiding Officer



Richard Stradley, Board Chair



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>11-29</u> , 201 <u>2</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
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