

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James Gipple,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1096
Parcel No. 060/04484-001-000

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 James Gipple requested his appeal be considered without hearing. He 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

James Gipple, owner of property located at 2211 E. 37th Street, 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 home having 909 square feet of living area built in 1998. The dwelling has a 168 square-foot deck, a 48 square-foot open porch, a 441 square-foot attached garage, and no basement. It has an average quality (4+00) construction grade and is in normal condition. The improvements are situated on 0.145 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$99,400, representing \$14,900 in land value and \$84,500 in dwelling value.

Gipple protested to the Board of Review by filling in information on two comparable sales in the section for equity claims. However, it appears clear he was claiming the property is assessed for

more than authorized by law under Iowa Code section 441.37(1)(a)(2).. It also appears the Board of Review considered his protest as an overassessment claim. He requested an assessed value of \$87,168. The Board of Review denied the protest.

Gipple then filed his appeal with this Board based on the same ground. He requested a reduction in value to \$89,400, allocated \$14,900 to land value and \$74,500 to dwelling value. He reported the dwelling was remapped and now is in a flood plain. Flooding in August 2011, after the assessment date, caused \$6000 in damage to the subject property and resulted in lower rental income for Gipple.

Gipple listed two comparable sales on his Board of Review petition and one on his petition to this Board to support his claim. The two Board of Review properties are one-story dwellings in normal condition and the sales were both arm's length transactions. One property (2817 E 37th Ct) was built in 1959, nearly forty years before the subject property was constructed. Gipple did not make any adjustments to these properties to account for differences between them and his property. Gipple's comparable property information provided is summarized below.

Owner's Comps	Year Built	Garage SF	Living Area	Sale Date	Sale Price	Price PSF	2011 AV
2419 E 36th St	1997	720	988	11/15/2010	\$95,000	\$96.15	\$103,400
2817 E 37th Ct	1959	0	775	03/31/2011	\$74,500	\$96.13	\$73,400
2710 E 36th St ¹	1981		922	05/12/2011	\$87,500	\$94.90	
Subject	1998	441	909				\$99,400

¹ There is limited information in the record on this sale. It is unknown if the property has a garage or basement area. The assessed value is also unknown.

The Board of Review Appraiser Analysis included five comparable sales. These properties were all one-story dwellings in normal condition and the sales were all arm's length transactions. The Board of Review's comparable property information is summarized below.

Protest Comps	Year Built	Garage SF	Living Area	Basement SF	Sale Date	Sale Price	Price PSF	2011 AV
2419 E 36th St	1997	720	988	0	11/15/2010	\$95,000	\$96.15	\$103,400
3608 E Sheridan	1996	0	865	832	04/29/2010	\$102,500	\$118.50	\$107,300
2804 E 36th St	1999	0	912	900	01/07/2010	\$115,000	\$126.10	\$116,500
2704 E 36th St	2000	0	1039	1020	08/06/2010	\$125,000	\$120.31	\$120,700
2608 E 36th St	1997	0	854	832	06/15/2009	\$85,000	\$99.53	\$112,700

We note that Gipple's property is assessed at \$109.35 per square foot. This is higher than the sale prices per-square foot of the properties he selected, but is well within the \$96.15 to \$126.10 range and below the median (\$118.50 per square foot) of the comparable sales identified by the Board of Review. Further, Gipple's assessed value per square foot (\$109.35) is below the median of the Board of Review's comparable sales adjusted price per square foot of \$111.50. Given that Gipple did not make any adjustments to his comparable properties and the subject property's assessed value per square foot is below the Board of Review's comparables' unadjusted and adjusted sales price per square foot, Gipple has failed to satisfy his burden of showing that his property is over-assessed.

Viewing the record as a whole, we find the preponderance evidence does not support Gipple's claim his property was over-assessed as of January 1, 2011.

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)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Gipple failed to prove by a preponderance of the evidence that his 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 \$99,400, representing \$14,900 in land value and \$84,500 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 3 day of December 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

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>12-3</u> , 201 <u>2</u>	
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>Juan Lopez</u>