

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Inie Clement,**  
Petitioner-Appellant,

v.

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

**ORDER**

**Docket No. 11-77-1101**  
**Parcel No. 080/03327-000-000**

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On November 21, 2012, the above captioned appeal came on for consideration 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 Appellant Inie Clement was self-represented and requested a written consideration. The Polk County Board of Review was represented by Assistant County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn. Both parties submitted evidence. The Appeal Board having reviewed the record and being fully advised, finds:

*Findings of Fact*

Inie Clement is the owner of a residential, single-family property located at 1706 23rd Street, Des Moines, Iowa. The subject property is a one-and-a-half-story design built in 1912. The property has 1139 square feet of living area and a 546 square foot unfinished basement. The improvements are of average quality (4-05) grade in very poor condition. The site is 0.147 acres.

Clement protested to the Polk County Board of Review regarding the 2011 assessment of \$62,500, allocated as \$8500 in land value and \$54,000 in improvement value. The claim was based on the grounds that there is an error in the assessment under Iowa Code section 441.37(1)(a)(4), essentially asserting the property is over-assessed; and that there has been a

change in the value since the last assessment under sections 441.37(1) and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). The Board of Review determined that Clement's claims amounted to a claim that the subject property was assessed for more than its market value, or a claim for over-assessment. Similarly, we consider only the claim of over-assessment.

On the recommendation of an appraiser analysis, the Board of Review reduced the assessment to a total value of \$13,900, allocated \$8500 to land value and \$5400 to improvements. The analysis was prepared by an appraiser, O'Connell, whose opinion was based on an exterior inspection of the property. O'Connell noted the "home was boarded up and in very poor condition," and changed the condition rating to very poor.

Clement then appealed to this Board reasserting the claim of over-assessment. On the appeal form, Clement states simply that the subject property "cannot be sold [for] anything close to the new assessed value" and the property is "worthless." The Notice of Appeal & Petition indicates the property was vandalized and suggests that reducing the tax burden may encourage someone to purchase the property. Clement did not, however, indicate what she believes is the property's correct assessed value.

Clement presented evidence establishing the property's condition and its current vacant state. Clement provided multiple pictures of the subject property showing severe disrepair. Clement offered a remodeling proposal indicating that considerable work must be completed before this property could pass city inspection to be rented or sold. This evidence clearly illustrates the assessor's recommendation to change to property condition to "very poor" was proper. Clement also supplied a Des Moines Water Works bill showing there has been no usage

of water in the property. While evidence of the property's condition has a bearing on its value, it is not sufficient to establish an actual value of the subject property. We do not find this information useful in determining the subject property's fair market value.

The Board of Review submitted the real estate contract of the subject property, dated October 1, 2004. The contract shows that the total purchase price for the property at that time was \$67,500. It also submitted a copy of the Polk County Treasurer's Office real estate tax information showing that a tax sale of the subject property was cancelled on July 15, 2011. The amount of taxes, interest, fees, and costs due on the property at that time was \$12,782.05.

Like Clement's exhibits, we do not find this information useful in determining the subject property's fair market value as of January 1, 2011. The October 2004, real estate contract is not instructive of the subject property's value as of January 1, 2011, especially considering the change in the property's condition since that time. Further, a tax sale due to delinquent taxes is not indicative of the property's market value.

Based on the limited information in the record, we find that Clement has not provided sufficient evidence demonstrating the fair market value of the subject property as of January 1, 2011, and to support a claim of over-assessment.

### *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).

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 appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77. Clement did not provide any evidence regarding the subject property's correct market value as of January 1, 2011. Although the evidence submitted by Clement was indicative of the subject property's condition, the evidence did not establish the subject property's actual value. Evidence of the property's actual value, such as an appraisal or adjusted

sales of comparable properties, is a necessary evidentiary requirement for Clement to meet her burden of proof in this appeal.

Therefore, we determine the property's assessed value as of January 1, 2011, is \$13,900.

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

Dated this 28<sup>th</sup> day of December, 2012.

Karen Oberman  
Karen Oberman, Presiding Officer

Jacqueline Rypma  
Jacqueline Rypma, 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>12/28</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	<u>[Handwritten Signature]</u>