

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Adam Zahs,**

Petitioner-Appellant,

v.

**Polk County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 11-77-1132  
Parcel No. 020/02520-001-312**

On July 31, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Adam Zahs was self-represented and requested the appeal proceed without hearing. The Polk County Board of Review was represented by Assistant County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn. The Appeal Board having reviewed the entire record and being fully advised, finds:

*Findings of Fact*

Adam Zahs, owner of a residentially classified property located at 300 Walnut Street, Unit 807, Des Moines, Iowa, appeals from the Polk County Board of Review decision regarding his 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$7200 in land value and \$93,200 in improvement value for a total assessment of \$100,400.

The subject property is a condominium located in The Plaza, a high-rise development built in 1985. The improvements include 735 square feet of living area and a balcony. According to the property-record card the unit also has one indoor, underground basement parking stall (B38). However, Zahs contends he does not own a parking stall.

Zahs protested his assessment to the Polk County Board of Review. On the protest he contended his property was assessed for more than the value authorized by law under Iowa Code Section 441.37(1)(b). He asserted the correct value of the subject property was \$83,342. Zahs also claimed there was an error in the assessment under section 441.37(1)(d), but the error claim essentially reasserts his claim of over-assessment. Accordingly, we only consider a claim of over-assessment.

The Board of Review denied the protest.

Zahs then appealed to this Board reasserting his claim and the correct value.

To support his claim of over-assessment, Zahs relied on four sales in his development. These sales were of Units 510, 906, 904, and 1503. The four properties sold between late 2010 and early 2011 for \$73,900 to \$175,000. Unit 906 sold as the result of foreclosure. We note that in arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). This sale was not adjusted to account for its foreclosure status. Therefore, we will only consider the sales of Units 510, 904, and 1503.

Zahs' sales range from 795 to 1107 square feet living area compared to the subject's unit size of 735 square feet. Zahs contends that in the last eighteen months, parking spots in The Plaza have sold for \$20,000 each. The certified record includes two sales of what we assume are parking spots. Both sales occurred in May 2010 for \$20,000 each. However, it is unknown if these are single stall or multiple stall sales or if there are differences between parking spots within the garage that may result in one spot having greater value than another.

Zahs reduced each of the three sales by \$20,000 per parking spot, resulting in adjusted values between \$90,000 to \$135,000; or \$111.76 to \$121.95 per square foot. He used the average adjusted sale price per square foot of the four sales, \$113.39, to arrive at his opinion of the subject property's value of \$83,342. When the foreclosure is removed from the analysis, the average adjusted price per

square foot is \$115.64, or roughly \$85,000. Zahs did not make adjustments to the sales for any other differences in the properties such as quality/condition of the units, size, views, or floor levels.

Therefore, we give this data limited consideration.

Zahs claims his unit has some deferred maintenance citing “three cracked windows and marker writing on the inside of kitchen cabinets.” Additionally, Zahs asserts that his unit does not include a garage stall. In his petition, he states that he purchased the property as a “for sale by owner” (FSBO) “under the impression it included a parking spot, which was not the case.” Therefore, he believes he overpaid for the property by \$20,000. We note Zahs purchased the subject unit in December 2009 for \$107,500. Because Zahs does not believe he owns a garage stall, we suggest the Board of Review request the assessor’s office to verify this amenity and adjust future assessments if necessary.

The Board of Review relied on an Appraisers Analysis in the certified record. The appraiser’s remarks state that “since January 1, 2010, there have been seven sales coded good for analysis of units with comparable square foot in the building. The median square foot rate of these seven sales is \$149.92. Subject is assessed at \$136.60 per square foot.” The Board of Review analysis did not list specific properties it identified or provide any analysis of them from the general list of sales it provided. Because this information is incomplete and not explained we give it no consideration.

Based upon the foregoing, we find Zahs has failed to provide sufficient evidence 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. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). 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 that alleges 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). Zahs offered four recent sales, but one was a known foreclosure. Of the three remaining sales, Zahs failed to adjust or explain why adjustments were not necessary for differences that may exist such as quality/condition, size, view, or floor location.

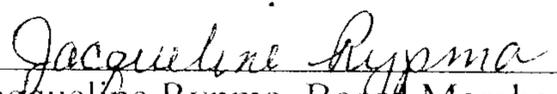
We therefore affirm the assessment of Adam Zahs' property as determined by the Polk County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Adam Zahs' property located at 300 Walnut Street, Unit 807, Des Moines, Iowa, of \$100,400, as of January 1, 2011, set by Polk County Board of Review, is affirmed.

Dated this 13 day of September, 2012.

  
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Karen Oberman, Presiding Officer

  
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Richard Stradley, Board Member

  
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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>9-13</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	