

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Bruce & Jeannette Greiner,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0270
Parcel No. 01-000-06-0240

On March 13, 2012, the above-captioned appeal came on for hearing 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. Petitioners-Appellants Bruce and Jeannette Greiner requested a hearing and submitted evidence in support of their petition. They were self-represented. County Attorney John Criswell is counsel for the Board of Review, and County Assessor Brian Arnold represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Greiners, owners of property located at 13676 County Line Road, Carlisle, Iowa, appeal from the Warren County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a two-story dwelling built in 1910 with three, one-story additions of 276 square feet, 27 square feet, and 840 square feet built between 1910 and 2001. The dwelling has 3063 total square feet of living area. It has an unfinished, half-basement; a 587 square-foot, wood deck; and a 608 square-foot, wood deck. It also has a 147 square-foot, enclosed porch and a 120 square-foot, open porch. The dwelling has a 3+5 quality grade and is in normal condition.

The property is also improved by a 1080 square-foot detached garage¹ built in 1996 with 576 square feet of living quarters over it and a 1500 square-foot metal, pole barn² built in 2001. The improvements are situated on 2.110 acres. The land is rated normal and assessed at \$48,000 for the first acre and \$1500 for additional acreage.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$361,100, representing \$49,500 in land value and \$311,600 in dwelling value.³

Greiners protested to the Board of Review on the grounds that the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a); the property is assessed for more than authorized by law under section 441.37(1)(b); that there is an error in the assessment under section 441.37(1)(d); and that there has been a change in value since the last reassessment under sections 441.34(1) and 441.35. They requested a reduction in value to \$253,976 (rounded). The Board of Review denied the protest.

Greiners then filed their appeal with this Board based on the grounds of over-assessment and error in the assessment. At hearing, it became apparent they were also carrying forward their claim of inequity. They again requested a reduction in value to \$235,976. They arrived at their requested relief by averaging the 2011 assessed values of the properties they used as equity comparables (Exhibits 4-13) and market comparables (Exhibits 15-19), then slightly increasing this amount.

Greiners assert an error in the calculation of living area of their dwelling. They believe the total living area should be 1947 square feet, not 3063 square feet. Greiners claim the pool room, solarium, and enclosed breezeway should be excluded from the living area calculation. They report the solarium cannot be used in winter. We note from review of the property record card that the 147

¹ The property record card indicates the garage is priced as a detached; however it appears to be an attached garage on the sketch.

² The Allen appraisal lists the pole barn as finished; the property record card does not.

³ Subsequent to the assessment date, permits were issued for a \$10,000 new building in April 2011, and a \$15,000 addition in May 2011. These improvements were not included in the assessment at issue.

square foot, enclosed breezeway is excluded from the total, as is the 576 square feet of living quarters over the garage. The calculations from the property record card, as listed below, do accurately total 3063 total square feet of living area.

Building Area	SF
2 story base - main level	960
2 story base - upper level	960
1 floor addition - solarium	276
1 floor addition - pool room	840
1 floor addition	27
Total Living Area	3063

Bruce Greiner testified that his property is a 1910 farmhouse that was renovated between 2000 and 2001. It is located on a gravel road that becomes muddy in wet weather. It also uses liquid propane gas and well water, has no cable or digital subscriber line (DSL) service, and has no city services. We note the lack of city services is typical for rural properties. He reports the property line is near the Highway 5 bypass.

In support of their equity claim, Greiners offered ten properties comparison. In his testimony, Bruce Greiner differentiated each property from the subject property by attributes he believed to be superior, such as city services, paved roads, and property features. We note a wide variance in the ages of the properties, the design, location, total living area, basement area, garage size, and site size. For these reasons, we do not find these properties comparable to the subject. Furthermore, the subject property's assessment is approximately at the median assessed value per square foot of all the properties. The following chart summarizes the Greiners' equity comparable information.

Address	Yr Built	Design	Acres	Garage SF	TSFLA	2011 AV	AVPSF
Subject	1910	2 sty frame	2.11	1080	3063	\$361,100	\$117.89
4166 25th Ave, Norwalk	1900	2 sty frame	2.27	960	3040	\$177,600	\$ 58.42
2616 N Scotch Ridge Rd, Carlisle	1910	2 sty frame	4.73	576	2476	\$273,700	\$110.54
200 N 60th, Cumming ⁴	1997	1 sty frame	3.50	660	1512	\$272,600	\$180.29
5138 91st Lane, Norwalk	1994	2 sty frame	3.67	1461	2135	\$316,600	\$148.29
15402 Briggs St, Carlisle	1982	1 sty frame	2.52	896	1914	\$277,900	\$145.19
14586 Scotch Ridge Rd, Carlisle	1930	2 sty brick	6.93	480	2161	\$235,400	\$108.93
5825 G24 Hwy, Carlisle	1908	2 sty frame	3.34	816	2530	\$201,200	\$ 79.53
12746 Ford Trl S, Indianola	1979	2 sty frame	2.21	1464	2512	\$300,200	\$119.51
5112 91st Lane, Norwalk	1994	1 sty frame	3.55	546	1700	\$284,300	\$167.24
211 N Kenwood Blvd, Indianola	1968	1.5 sty frame	3.44	672	2760	\$260,600	\$ 94.42

We also note a cursory review of the property record cards for these equity comparables shows the cost pricing method of the *Iowa Real Property Appraisal Manual* was uniformly applied to value the properties. Before applying depreciation and obsolescence, and depending on size; the same pricing was applied to the two-story base, another price per square foot for one-story additions, garages, decks, open porches, enclosed porches, etc. to the subject property and other two-story dwellings.

In support of their market value claim, Greiners offered an appraisal completed in 2007 and a letter updating the appraisal report written by realtor Kimberly Allen of Allen Appraisal Associates in Johnston, Iowa. They purchased the property in March 2007 for \$355,000. In Allen's opinion, the subject property was worth \$355,000 at the time of purchase in 2007 and \$335,000 as of May 2008 based on sales comparisons. While this value opinion is irrelevant to the 2011 value of the subject, Allen does indicate some of its features such as the pool area, living quarters above the garage, and detached pole building with finish "would be considered an extra within the market and not typically giving a high dollar return on cost." In her opinion, both factors would be considered a super-adequacy for central Iowa and would not return cost to build in the marketplace. She noted external

⁴ The property record card for 200 N 60th was included in the exhibits (Exhibit 6), however it was excluded from Greiner's summary chart (Exhibit 14)

obsolescence for the location in relation to Highway 5 and functional obsolescence for the indoor pool and accessory units. Ultimately, we give the 2008 value opinion no consideration.

Greiners also offered five sales of two-story, frame dwellings they deemed comparable to their property. We note in Exhibit 14, Greiners added basement finish area to above-grade living area to calculate total living area in some of the compared properties, which is not the typical methodology. The figures used in the chart below, includes only above-grade living area. The following chart summarizes their sales information.

Address	Yr Built	Sale Date	Sale Price	Time of Sale AV	TSFLA	Acres	SP Per SF	At Sale AV Per SF	2011 AV Per SF
Subject	1910			\$361,100	3063	2.11			\$117.89
1005 S Y St, Indianola ⁵	1917	2009	\$214,500	\$331,000	3059	3.31	\$ 70.12	\$ 108.21	\$ 82.90
17118 Fulton St, Indianola ⁶	1920	2008	\$150,000	\$110,500	1560	2.00	\$ 96.15	\$ 70.83	\$ 100.26
7815 Hwy 65 69, Indianola	1920	2010	\$289,900	\$388,600	3024	4.99	\$ 95.87	\$128.51	\$ 96.89
13866 Delaware St, Carlisle ⁷	1962	2011	\$200,000	\$229,300	2356	4.75	\$ 84.89	\$ 97.33	\$ 97.33
15123 Bluff Trl, Carlisle	1895	2010	\$274,900	\$268,000	2314	3.43	\$118.80	\$115.82	\$120.27

Although Bruce Greiner identified differences between the subject property and the sales comparables listed above, no quantified adjustments were made to account for these differences. According to the property record cards, only the two 2010 sales were normal arm's-length transactions. Their sale prices were \$95.87 and \$118.80 per square foot. These two properties' assessments for January 1, 2011, were \$96.89 per square foot and \$120.27 per square foot placing the subject property's assessment within both the 2010 sales prices per square foot and the 2011 assessed values per square foot.

⁵ The property record card indicates this sale was a foreclosure. Without adjustment for this distorting factor, the sale price may not represent market value.

⁶ The property record card for 17118 Fulton (Exhibit 16) indicates the sale was of a dwelling on agricultural land with a 2008 land value of \$2000, which was raised in 2009 after the sale to \$31,000 in land value. This classification difference makes the comparison of sale price and assessed value meaningless.

⁷ The property record card for 13866 Delaware (Exhibit 18) indicates this was a contract sale between family members. It would be prudent to have verification this was a normal sale.

In Jeannette Greiner's opinion, foreclosure sales should have been used in the sales/assessment ratio study performed by the assessor. We recognize, however, that distress sales must be adjusted to remove the effect of the distorting sale factor before they can be used as sales comparables or in equalization studies. Jeannette Greiner also testified that home values have declined 20% according to Zillow.com, and the decline has had the most impact on in the \$300,000 plus range. These statistics are based on national trends and not specific to the subject's location; as such, we give them limited consideration.

Assessor Brian Arnold explained that sales ratio studies for rural residential properties do not indicate over-assessment in the county. He also testified that rural-acreages of less than nine acres were within acceptable ranges and, in particular, that in Allen Township where the subject property is located, the sales assessment ratio indicated under assessment. Because sales ratios indicated under-assessment, his office reassessed the Township properties by increasing the map factor approximately 10% (Exhibit D). The sales ratio, however, includes three years of sales from 2008 to 2010 and does not rely solely on 2010 sales. The four sales that occurred in Allen Township in 2010 had sales/assessment ratios of 94.05%, 101.16%, 101.24%, and 103.78%. The 2010 one-year sales comparisons for the township would not support the 10% increase applied for the 2011 reassessment. Nevertheless, because this data does not bear on Greiners' individual assessment, we give it no weight.

Arnold reported the Greiners did not permit his office to inspect the subject property to determine whether their claim of measurement errors had merit. The property record card notations indicate that in his initial contact with the assessor's office in 2007, Bruce Greiner emphatically prohibited entry upon his land by anyone from the assessor's office, thus precluding inspection. It is

difficult for the assessor or this Board to make property decisions based on accurate information without an inspection.⁸

Viewing the record as a whole, we find Greiners failed to prove by a preponderance of the evidence their property assessment is inequitable compared to like properties in the taxing jurisdiction, is over-assessed, or that there is an error in the assessment 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. *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

⁸ It is of concern to this Board that the email correspondence from former Assessor Dave Ellis (Exhibit 21 & Exhibit E) indicated the Board of Review rules prohibit any adjustment unless property owners agree to an inspection.

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. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Greiners did not prove by a preponderance of the evidence that their property is inequitably assessed under either test.

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). Greiners failed to prove by a preponderance of the evidence that their property is over-assessed and the fair market value of the property.

Section 441.37(1)(d) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(d), on which the appellant rests his claim, allows a protest on the ground “[t]hat there is an error in the assessment.” § 441.21(1)(d). The administrative rule interpreting this section indicates that the error may be more than what is alleged by the Board of Review. While “[a]n error in the assessment *would most probably* involve erroneous mathematical computations or errors in listing the property[,] [t]he improper classification of property also constitutes an error in the assessment.” Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). This language suggests that other errors may constitute grounds for appeal pursuant to section 441.37(1)(d). Greiners claim an error in calculation of the total living area of their dwelling. The evidence fails to support their claim.

Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Greiners' claims of inequitable assessment, over-assessment, or an error in the assessment as of January 1, 2011. Therefore, we affirm the property assessment as determined by the Board of Review of \$361,100, representing \$49,500 in land value and \$311,600 in dwelling value as of January 1, 2011.

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

Dated this 18th day of May 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer
Richard Stradley
Richard Stradley, Board Chair
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>5/18</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>[Signature]</u>