

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jerald Glawe,
Petitioner-Appellant.

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-94-0056
Parcel No. 07-20-383-019

On April 20, 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. Petitioner-Appellant Jerald Glawe was self-represented. Assistant County Attorney Cori Kuhn Coleman is counsel for the Board of Review and represented it at hearing. Neither party submitted evidence in addition to the certified record. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jerald Glawe appeals from the Webster County Board of Review decision reassessing his residential property located at 422 S. 14th Street, Fort Dodge, Iowa. According to the property record card, the subject property consists of a two-story, frame, two-family conversion having 1352 square feet of living area built in 1917. It has a full, unfinished basement and a 190 square-foot attached garage. The property is also improved by a 208 square-foot enclosed porch and a 70 square-foot enclosed porch. The dwelling has an average quality grade (4+10), is in normal condition, and has 50% physical depreciation, 10% functional obsolescence, 10% economic obsolescence, and 10% other obsolescence.

The improvements are situated on a 0.048 acre site. The real estate was classified as residential on the January 1, 2011, assessment and valued at \$41,260, representing \$2,410 in land value, and \$38,850 in dwelling value.

Glawe protested to the Board of Review by filling out the petition sections for error and downward change in value; however, he was essentially claiming the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b). The Board of Review denied the petition.

Glawe then appealed to this Board and reasserted his claim. He claims the property's fair market value is \$24,000 or less.

Glawe testified he purchased the property for \$40,000 in 2007. It was part of a multiple-parcel purchase for investment purposes. He added a kitchen, remodeled a bath, and replaced some windows at a cost of \$2,000 to \$3,000. Glawe testified he receives \$480 in monthly rent from each of the two tenants, and he pays for all the utilities, insurance, and other expenses. He reported only \$3,000 in profit last year. Glawe has tried to sell this property for the last eighteen months with no offers. His realtor suggested the current listing price of \$45,000 for the property. Although he offered to sell it to an investor for \$28,000, it was declined. Glawe reportedly requested an inspection by the Board of Review to verify foundation problems, basement cracks, and deterioration in the upper deck.

In Glawe's opinion, property assessments are higher than actual sale prices in Fort Dodge. As an example, Glawe testified he purchased another rental property in Fort Dodge for \$65,000 in 2007. He renovated it to a two-family conversion and added a two-car garage, yet it sold for only \$50,000, leaving him with a loss of between \$35,000 and \$40,000. Glawe gave other instances of property in his neighborhood that sold \$10,000 or more lower than the assessed value. We note the sale prices he used for comparison are mainly foreclosure or sheriff's sale prices. He said the foreclosure properties are the ones that are moving in the market.

Assessor Jeanette Thanapakorn testified the subject property was last inspected in 1997, and no permits were pulled for remodeling since Glawe purchased it. She indicated the property had been listed as a two-family conversion prior to that time. Thanapakorn acknowledged the prevalence of foreclosures and other distress sales in the area, but thought values were generally holding steady. She explained the 10% other obsolescence was uniformly given to all conversions. Thanapakorn conceded deferred maintenance would have an impact of the value and expressed her willingness to inspect the subject property and providing her recommendation of its condition and obsolescence rating.

After the hearing, Thanapakorn inspected the property and reported the moisture and water damage to the garage and basement was caused by improper landscape grading, a sidewalk that slanted into the foundation, and the lack of a rain spout to divert rainwater away from the building. Thanapakorn provided color photographs depicting the items of deferred maintenance in her opinion letter. Given these items of deferred maintenance, Thanapakorn judges the property to be in normal condition for its age. She did not recommend changing the condition or applying additional obsolescence to the property. Further, Thanapakorn observed both housing units are rented to neat and orderly tenants. Glawe receives a total of \$900 in gross monthly rent and is in the process of remodeling an adjacent property.

James Kesterson, Chairman of the Board of Review, also testified. Kesterson, who is also an appraiser, explained the Board of Review's decision was based mainly on the lack of comparative sale evidence. He did recall Glawe offering to have the property inspected by the Board of Review. He reported that lower-end properties like the subject do compete in the market with foreclosures. In his opinion, this affects the fair market values of competing properties, but does not affect their assessed values. We question this reasoning, since an assessed value should; in fact, reflect a property's fair market value. As an appraiser, Kesterson has completed appraisal reports of distress sale properties that are completely trashed and stripped of fixtures and mechanicals, which impacts on their market

value. We assume he does not believe Glawe's property is in the same condition as the foreclosed properties.

Reviewing all the record as a whole, we find the preponderance of the evidence did not establish the subject property is over-assessed as of January 1, 2011.

Conclusions of Law

The Appeal Board applied the following law.

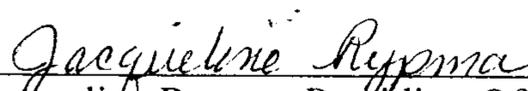
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all 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).

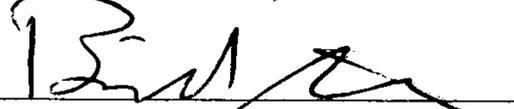
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Glawe's evidence failed to establish the subject property is over-assessed. Therefore, we affirm the Glawe property assessment as determined by the Board of Review as of January 1, 2011, is \$41,260, representing \$2410 in land value, and \$38,850 in dwelling value.

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

Dated this 7 day of June 2012.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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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>6-7</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
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