

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Daniel W. Summers,
Petitioner-Appellant,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-94-0133
Parcel No. 1110300021

On October 7, 2011, 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 Daniel W. Summers was self-represented and requested a written consideration. The Webster County Board of Review designated Assistant County Attorney Cori Kuhn Coleman as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Daniel Summers is the owner of a rural-residential, single-family property located at 2356 Wanoki Camp Road, Fort Dodge, Iowa. The property is a one-story home, built in 2003, and has 2502 square feet of total living area. The property has a full, walk-out basement with 1450 square feet of living-quarter finish. Additionally, the dwelling has a 1200 square-foot, three car attached garage; a 144 square-foot open front porch; a 448 square-foot deck, and a 400 square-foot patio. Other site improvements include a 3040 square-foot steel utility building built in 2002, a 1440 square-foot steel utility building built in 2003, a 960 square-foot metal frame lean-to built in 2003, and a 4320 square-foot lean-to built in 2007. The site is 9.03 acres.

Summers protested to the Webster County Board of Review regarding the 2011 assessment of \$378,710, which was allocated as follows: \$37,000 in land value and \$341,710 in improvement value. His claim was based on two grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). Summers asserted the market value of the subject property is \$291,680.

The Board of Review granted the protest, in part, reducing the total assessment to \$362,710.

Summers then appealed to this Board reasserting both of his claims and asking for the same market value.

On his protest form to the Board of Review, Summers listed five properties as equity comparables and provided the following information:

	Assessed At:
1848 Taylor Ave (17-89-27 FD Colfax Twp)	\$218,800
1681 Fairbanks Ave (1-89-30 MN Johnston Twp)	\$316,620
1616 Fairbanks Ave (1-89-30 MN Johnson Twp)	\$150,270
1890 Hidden Valley Estates (16-89-29 MN Douglas Twp)	\$276,610
2385 130 th St (17-90-28 FD Badger Twp)	\$275,710

The purpose of listing an assessed value on the form is to compare the current assessment of the subject property and the assessed values of comparable properties. There is a one-page parcel summary from the Assessor's office included in the certified record for each of the five properties. We note that neither the 2011 total values, nor the improvement values, listed on these summaries match the figures provided by Summers on his protest form. Summers did not provide any explanation to this Board about these properties, and we cannot discern where he found the values he listed. Basic information from the summaries is shown in the following grid. The subject property is highlighted.

Property Address	Map Area	Sale Date	Sale Price	2011 Assessed Value	Style	Year Built	Living Area	Basement Finish	Site Size (Acres)
1848 Taylor Ave	Colfax	Dec-09	\$350,700	\$309,100	1 Sty	1987	1796	175/125	4.77
1681 Fairbanks Ave	Johnson	Feb-10	\$410,000	\$335,700	1 Sty	2000	1816	1350	11.8
1616 Fairbanks Ave	Johnston	Feb-10	\$274,000	\$185,680	1 Sty	1971	1556	1150	13
1890 Hidden Valley	Douglas	Nov-08	\$275,000	\$283,930	1 Sty	1994	2322	2000	3
2385 130th St	Badger Twp	July-08	\$300,000	\$270,860	1 Sty	1998	2440	1000	3.5
2356 Wanoki Camp Rd	Pleasant Valley	N/A	N/A	\$362,710	1 Sty	2003	2502	1450	9.03

We note the subject property is the newest and has the most above grade living area and the second most total finished area. Additionally, according to the summaries, none of the comparables have outbuildings. The subject property has several large outbuildings with a total assessed value of \$80,050. Removing these buildings from the subjects total assessed value results in an assessed value for the site and residential improvements only of \$282,660.

The two properties on Fairbanks Avenue both sold in 2010. Their 2010 sale prices compared to their 2011 assessment indicate a sales ratio of 1.22 and 1.47. We note it appears CSR's are listed on one Fairbanks Avenue property record summary and this property may be classified agricultural. This could explain the discrepancy between the sale price, which are assumed to reflect market value, and the assessment, which would reflect productivity value for the land. Regarding the other property on Fairbanks Avenue, we have too little information to determine the discrepancy between the sale price and assessment.

Ultimately, there is not enough information available about the any of the properties to determine if they are comparable to the subject property for an equity analysis.

Summers also offered an appraisal by James P. Kesterson of Kesterson Appraisal and Consulting, Fort Dodge, Iowa. We note the Board of Review minutes also list Kesterson as a Board Member.

Kesterson's appraisal has an effective date of April 15, 2009. He developed the sales comparison approach and the cost approach to value. His final conclusion of value, as of the 2009 effective date, was \$325,000.

We note some discrepancies between the appraisal and the 2011 subject property record card. The appraisal is based on a site size of 11.78 acres compared to the property record card that indicates the property is 9.03 acres. While it is possible that a split of the parcel occurred between 2009 and 2011, there is no evidence to suggest this. There is also some slight discrepancy between the living area/basement finish totals. We find these living area discrepancies to be typical between the measurements of an appraiser and assessor documents and they would not result in significant value differences.

We find some of the adjustments applied by Kesterson to be questionable, specifically the minimal value attributed to the outbuildings. In his appraisal report, Kesterson omits any explanation of the buildings and provides only two photos, labeling them as a "machine shed" and "horse building." The photos in the appraisal report and on the property record card indicate the buildings appear to be of good quality and would offer significant value for an acreage setting. Kesterson attributes only \$10,000 total for all of the outbuildings, which does not appear to be reasonable. One of the buildings appears to have two levels. Given the difference between the minimal value assigned to these buildings by Kesterson compared to the assessed values of these improvements, it would seem reasonable that there was some commentary provided in his appraisal.

In addition to the concerns noted above, we give limited consideration to the appraisal due to the comparables having sale dates of May 2008 (Comparables 1 and 3) and November 2008 (Comparable 2). We do not consider 2008 sales to reflect a January 1, 2011, market value, especially when the equity comparables presented demonstrate more recent sales were available for a January 1, 2011, analysis.

The Board of Review did not provide any evidence.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is either inequitably assessed or over-assessed.

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).

To prove inequity, a taxpayer may show that 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 six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Summers provided five properties he considered to be equity comparables; however, there is not enough information to determine that these properties are reasonably similar to the subject property. Summers did not show inequity under *Maxwell* or *Eagle Foods*.

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). Summers provided an appraisal, completed by James Kesterson, with an effective date of April 15, 2009. The Kesterson appraisal does not appear to reasonably reflect the contributory value of the subject property's significant outbuildings, and it relies on sales which occurred in 2008. We do not consider 2008 sales, for this property type and location, to be representative of a January 1, 2011, market value.

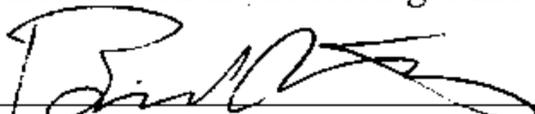
We therefore affirm the assessment of Daniel W. Summers property as determined by the Webster County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Daniel W. Summers property located at 2356 Wanoki Camp Road, Fort Dodge, Iowa, of \$362,710, as of January 1, 2011, set by the Webster County Board of Review, is affirmed.

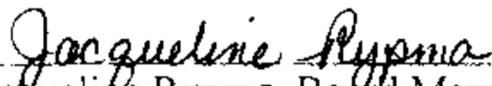
Dated this 18 day of October, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

Daniel W. Summers
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APPELLANT

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ATTORNEY FOR APPELLEE

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>10-18</u> , 2011	
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	