

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dorene L. Robinson,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-07-0054
Parcel No. 8912-34-302-018

On April 2, 2013, 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 Dorene Robinson was represented by Bernard Schmitz. Assistant County Attorney Dave Mason represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Dorene Robinson is the owner of property located at 510 Douglass Road, Waterloo, Iowa. The real estate was classified residential on the January 1, 2012, assessment and valued at \$385,100, representing \$50,850 in land value and \$334,250 in improvement value. The record indicates this parcel was newly assessed in 2012 and therefore all grounds for appeal under section 441.37 are available.

Robinson protested her assessment to the Black Hawk County Board of Review on the ground the property was assessed for more than authorized by law under section 441.37(1)(a)(2). She asserted the correct value was \$245,000. The Board of Review denied the protest. Robinson reasserted her claim to this Board.

The property record card indicates the subject is a two-story, log-pine home built in 1984. It has 2836 square-feet of above-grade living area, and a full, unfinished basement. There is a 960 square-foot, detached garage built in 1982, and a wrap-around open porch of 1144 square-feet. The site is 3.34 acres.

Bernard Schmitz represented Robinson at hearing and testified the subject property is truly a log-pine home, hand-fitted together, and the logs are exposed on the interior as well as the exterior. He explained, and provided pictures, showing some decay of the wood as well as some pest infestation as a result of poor construction and treatment. He noted the interior partitioned walls are conventional construction (drywall), but because of the log construction, there has been settlement that has affected the entire structure. He emphasized the subject is a unique home with unique problems and does not believe the assessment correctly considers these factors.

Schmitz also noted the Federal Emergency Management Agency (FEMA) recently made changes to the flood maps, which resulted in the subject property being in a Special Flood Hazard Area. This change led to flood insurance being required on the property. Ultimately, Schmitz believes this would have an impact on the subject property's value; however, he did not provide any evidence of what that value impact might be in relation to the subject property's total value.

Robinson submitted an appraisal she commissioned from David McRae of McRae Appraisals, Inc., Cedar Falls, Iowa. McRae's appraisal has an effective date of April 10, 2012, and he only developed the sales comparison approach to value. He analyzed six comparable properties, which sold between March 2010 and September 2011. The sale prices ranged from \$200,500 to \$313,000; and the properties were located roughly five to twenty miles from the subject property. After adjustments for differences, the values ranged from approximately \$226,000 to \$281,000. McRae reconciled the adjusted sales and concluded an opinion of \$245,000 for the subject property.

Lastly, Schmitz noted six properties in the subject's immediate area. However, they were not sales and therefore cannot be considered for a market value claim. We give this evidence no consideration.

In a letter dated February 28, 2013, Black Hawk County Deputy Assessor T.J. Koenigsfeld provided a comparison of two of McRae's comparable properties and noted a median unadjusted sales price per square foot of \$124.19. He did not include the properties that are located outside of Black Hawk County. At hearing, Schmitz believed Koenigsfeld was critical of the use of sales outside of the county. However, we do not see that criticism in his letter; rather, it appears Koenigsfeld simply notes he did not have the property records cards for those properties to include in his analysis. We note that for a market comparison analysis, sales of properties outside of the jurisdiction may be considered.

Koenigsfeld is critical of McRae's appraisal because it considered sales located in rural areas rather than located within the city limits of Elk Run Heights. We do not believe the location within Elk Run Heights is the most critical element of comparison. Further, because of the subject property's unique qualities, confining sales to Elk Run Heights may unreasonably limit potential properties the market would consider as comparable. Because of the unique style of the subject property and its larger site size, we find it reasonable to consider a wider search area and similarly sized sites.

Koenigsfeld's letter referred to Attachment #2 which is a comparable analysis prepared by the Board of Review. It includes four sales of properties, all located within Black Hawk County. The sales occurred between May 2009 and November 2010, and had sales prices between \$254,500 and \$347,500; however, we note three of the four sales prices are less than \$270,000. After adjustments, the properties had indicated values of roughly \$378,700 to \$421,600. However, the adjustments made to the properties were cost-based rather than market-based. As such, we hesitate to rely on the analysis, as we do not believe cost is always reflective of the market value of an element. For instance, the subject property has an extensive wrap-around-porch, which Schmitz testified was designed to help

protect the natural pine-logs of the exterior. In Schmitz's opinion, the size of the porch is necessary because of the protective element it provides but the actual cost of this amenity would not be recognized by the market. We agree. The cost-based adjustment for this amenity is roughly \$30,000; whereas McRae noted roughly a \$2000 market value for this amenity. Additionally, we note an adjustment for Comparable 1 which has an 864 square-foot, detached garage compared to the subject's 960 square-foot, detached garage. We do not believe the market would recognize this relatively minor difference, but rather would consider the utility (number of stalls) the garages offered.

Ultimately, Koenigsfeld asserts that in his opinion the subject property is over-assessed. He believes the correct value is between \$344,000 and \$352,000. Essentially, he considered the unadjusted median sales price (\$121.34) of the four comparable properties in Attachment #2 to arrive at the lower end of the range; and the unadjusted median sales price (\$124.19) of two of McRae's comparable properties (Attachment #1) to arrive at the upper end of this range.

Koenigsfeld's unadjusted sales data and McRae's appraisal establish the property is excessively assessed. Because McRae's appraisal included market-based adjustments, we find it is the best evidence of the subject property's fair market value as of January 1, 2012.

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. § 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.

Robinson provided an appraisal completed by David McRae, with a market value opinion of \$245,000, and an effective date of April 10, 2012. McRae developed the sales comparison approach and used six comparable properties. Although not all located within Black Hawk County, he considered them all comparable properties. We find this appraisal is the best evidence in the record of the subject's January 1, 2012, fair market value.

The Board of Review provided a letter and several analyses. However, the analyses included only cost-based adjustments compared to the preferred market value adjustments.

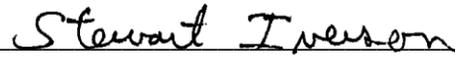
THE APPEAL BOARD ORDERS the assessment of Dorene Robinson's property located at 510 Douglass Road, Waterloo, Iowa, is modified to a total value of \$245,000, allocated as \$50,850 in

land value and \$194,150 in improvement value as of January 1, 2012. The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Black Hawk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 2nd day of May, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Dorene Robinson
510 Douglass Road
Waterloo, Iowa 50707
APPELLANTS

David Mason
3265 W 4th Street
Waterloo, Iowa 50701
ATTORNEY FOR APPELLEE

Grant Veeder
316 East 5th Street
Waterloo, IA 50703
AUDITOR

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 May 2, 2013.

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Certified Mail Other



Signature _____