

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

M. Kimberly MacLin,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 12-07-0571
Parcel No. 8913-34-278-026

On November 19, 2013, the above-captioned appeal came on for telephone 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. Attorney Eric Johnson, Waterloo, Iowa represented Appellant M. Kimberly MacLin. 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

M. Kimberly MacLin, is the owner of property located at 335 Sheridan Road, Waterloo, Iowa. The property was classified residential as of January 1, 2012, and valued at \$166,920, representing \$25,110 in land value and \$141,810 in improvement value. There was no change in value from the 2011 assessment.

MacLin protested her assessment to the Black Hawk County Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). The Board of Review denied the protest stating “insufficient evidence presented to prove a downward change in value since last assessment.”

MacLin then appealed to this Board. In her appeal, MacLin appears to reassert a claim of over-assessment stating “that the tax should be lowered to reflect the property’s fair market value.” Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal is downward change in value. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). This is the only ground available in an “interim year,” such as 2012, when the assessor has not changed the property’s assessment. § 441.35(2).

The property record card indicates the subject is a single-family, brick, one-story property with a finished attic, built in 1921. It has 2317 square feet of above-grade living area; a full, unfinished basement; and a patio. It also has a 1000 square-foot detached garage built in 1950. The site is 0.270 acres.

MacLin purchased the subject property in August 2010 for \$142,500, which she asserts is the correct fair market value. MacLin submitted a Multiple Listing Sheet (MLS) of the subject property that reports the subject was a normal sale. The MLS also indicates the property is to be sold “as is” and that it’s a great home for “sweat equity.” Further, the MLS indicates the owner was recently deceased and that a “quick possession” is possible. MacLin also submitted a property inspection report completed by National Property Inspections completed by Dale Griswold. Only pages 4- 6 of the report were included in the record. The inspection report indicates some deficiencies and deferred maintenance.

The Board of Review submitted an October 2013 letter from Black Hawk County Assessor Tami McFarland. McFarland’s letter explains her opinion that the August 2010 sale price was a normal transaction and she also noted the January 1, 2013, assessment of the subject property was reduced to \$159,460.

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 a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Id.*, 252 N.W.2d at 450. The assessed value cannot be used for this

purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

While the purchase price of the subject property from August 2010, may support a value for the January 1, 2011 assessment, MacLin failed to provide sufficient evidence of the January 1, 2012, fair market value. Both values are required to support a claim of change in value. *Equitable Life Ins. Co.*, 252 N.W.2d at 450.

THE APPEAL BOARD ORDERS the assessment of M. Kimberly MacLin's property located at 335 Sheridan Road, Waterloo, Iowa, as determined by Black Hawk County for January 1, 2012, is affirmed.

Dated this 27th day of December, 2013.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member

Copies to:
Eric W. Johnson
Beecher, Field, Walker, Morris, Hoffman & Johnson, P.C.
PO Box 178 620 Lafayette Street
Waterloo, Iowa 50703
ATTORNEY FOR APPELLANT

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