

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Aaron J. & Jolene R. Carolan,**  
Petitioners-Appellants,

v.

**Black Hawk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 12-07-0640**  
**Parcel No. 8814-36-276-003**

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On December 31, 2012, the above-captioned appeal came on for consideration 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 Aaron J. and Jolene R. Carolan requested their appeal be considered without hearing. They were self-represented and submitted evidence in support of their appeal. Attorney David Mason was counsel for the Black Hawk County Board of Review. The Appeal Board, now having examined the entire record and being fully advised, finds:

*Findings of Fact*

Aaron J. and Jolene R. Carolan, owners of property located at 8232 – 8300 Acker Road, Waterloo, Iowa, appeal from the Black Hawk County Board of Review decision reassessing their property. According to the property record card, the subject property has a 960 square-foot, one-story, frame dwelling built in 1960 with a full, unfinished basement and a 336 square-feet, attached garage. The subject also has a 1408 square-foot, one-story, frame dwelling built in 1954 with a full unfinished basement and a 676 square-feet, attached garage. The property is improved by fourteen outbuildings ranging from 400 square feet to 2520 square feet built between 1900 and 1973 and situated on 4.86 acres.

The real estate was classified as residential on the initial assessment of January 1, 2012, and valued at \$231,570, representing \$55,000 in land value and \$176,570 in improvement value. Although 2012 would typically be an interim assessment year, in the Carolans' case the assessor revalued and changed the 2012 value from what it was the previous year. As a result, all grounds of appeal were available to the Carolans. *Eagle Food Centers, Inc. v. Bd. Of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The Carolans protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). They claimed the actual value of the property was \$80,000, allocated \$25,000 to land value and \$55,000 to improvement value. This amount was their January 2012 purchase price of the property, which they believe represents the property's fair market value. The Board of Review denied the protest.

The Carolans then filed their appeal with this Board and claimed the same ground. They report the houses and buildings were not maintained, and are in dilapidated condition. In their opinion, the houses are uninhabitable without major repairs and renovation. They indicate most of the outbuildings need to be removed and only a few are salvageable. Photographs provided by the Carolans to this Board substantiate their opinion of the buildings' condition.

To support their claim, the Carolans provided seven sales of one-story homes in Waterloo, Evansdale, Hudson, and Washburn that sold between June 2011 and November 2012. The properties' sale prices range from \$37.04 per square foot to \$89.29 per square foot, with a median of \$57.62 per square foot. The sales prices were not adjusted to account for differences between the properties and the subject, such as location, age, condition, basement finish, lot size, construction quality grade, and other features. We note the subject property's assessed value (\$97.79 per square foot) is above the upper limits of the unadjusted range of the comparable properties' sale prices on a per-square-foot basis and its sale price is below the range of the comparable properties' per square foot. However, the

subject property consists of two dwellings and is on 4.86 acres while the sale properties' sites are all under a third of an acre and have only one dwelling. The land assessments of the sale properties range from \$7020 to \$16,660 as compared to the \$55,000 assessed value of the subject property. Because of the significant difference in land size and dwellings features between the subject property and the sale properties, we find they are not suitable for comparison without adjustment. The following chart lists the sales and the properties' assessments.

Address	Year Built	TSFLA	Garage Stalls	Sale Date	Sales Price	Site Size	Land Assessed Value
8232/8300 Acker	1960/1954	960 + 1408	1 +2 stalls	01/06/12	\$ 80,000 <sup>1</sup>	4.86	\$55,000
135 S Washington <sup>2</sup>	1947	936	none	11/15/12	\$ 40,000	0.193	\$13,500
129 Morris	1948	572	none	02/21/12	\$ 40,000	0.295	\$13,440
850 Payne	1949	640	none	05/15/12	\$ 35,000	0.252	\$16,660
616 Sunnyside	1952	672	1 stall	12/01/11	\$ 60,000	0.236	\$13,520
304 1st Street	1954	864	1 stall	03/13/12	\$ 32,000	0.293	\$15,340
202 2nd Street	1956	864	1 stall	07/15/11	\$ 60,000	0.298	\$15,500
205 Beverly	1956	1076	1 stall	06/17/11	\$ 62,000	0.203	\$7020

Deputy Assessor TJ Koenigsfeld submitted a letter dated December 12, 2012, indicating that the last interior inspection of the subject property was conducted in 1992. He reported that after seeing the pictures submitted by the owner, the assessor's office would make condition changes on the two residential houses and several outbuildings. This action would lower the value to \$105,220, allocated \$55,000 in land value and \$50,220 in improvement value. In Koenigsfeld's opinion, the land does not need adjustment because it is uniformly priced and equitable with the assessments of other acreages in the area.

We believe Koenigsfeld's report provides the best indication of the subject property's fair market value. Reviewing all the evidence, we find the preponderance of the evidence supports the Carolans' claim of over-assessment.

<sup>1</sup> The sale price is for the combined square footage of the two dwellings on the subject property.

<sup>2</sup> This sale was from a trust and may not accurately reflect the property's fair market value.

### *Conclusions of Law*

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. 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, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). 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 the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

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 to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

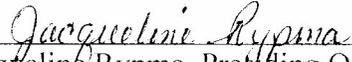
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Although the comparable properties identified by the Carolans were not sufficiently similar to provide this Board with an accurate determination of the subject property's market value

because points of difference between them and the subject property were not taken into account, Koenigsfeld provided evidence the property assessment should be reduced to account for the deteriorating condition of the buildings.

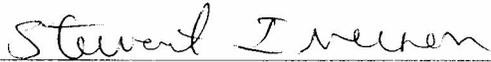
Viewing the evidence as a whole, we determine that the preponderance of the evidence supports the Carolans' claim of over-assessment. Therefore, we modify the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2012, be reduced to \$105,220, representing \$55,000 in land value and \$50,220 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2012, assessment as determined by the Black Hawk County Board of Review is modified as set forth herein.

Dated this 25 day of January 2013.

  
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Jacqueline Rypma, Presiding Officer

  
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Karen Oberman, Board Member

  
\_\_\_\_\_  
Stewart Iverson, Board Chair

Copies to:

Aaron J. & Jolene R. Carolan  
5232 Metz Road  
Cedar Falls, IA 50613  
APPELLANTS

David J. Mason  
3265 W 4th Street  
Waterloo, IA 50701  
ATTORNEY FOR APPELLEE

Grant Veeder  
County Courthouse  
Room 213  
316 E. 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 1-25, 2013

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

Signature *[Handwritten Signature]*