

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jean Pierre-Louis,
Petitioner,

v.

Bremer County Board of Review,
Respondent.

ORDER

Docket No. 12-09-0319
Parcel No. 05-34-180-019

On December 21, 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. Petitioner Jean Pierre-Louis requested this appeal be considered without hearing and was self-represented. Bremer County Attorney Kasey Wadding represented the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Jean Pierre-Louis, owner of property located at 1210 Frank Street, Waverly, Iowa, appeals from the Bremer County Board of Review decision reassessing the subject property. According to the property record card, it consists of a two-story dwelling having 2364 square feet of living area built in 2003. The dwelling has a full basement with 1000 square feet of living-quarters finish, a 162 square-foot, open porch, a 360 square-foot, wood deck, a 252 square-foot, brick patio, and a 729 square-foot, attached garage. It has a good quality (3+05) construction grade and is in normal condition. The improvements are situated on 0.703 acres.

The real estate was classified as residential on the initial assessment of January 1, 2012, and valued at \$297,980, representing \$54,990 in land value and \$242,990 in dwelling value. Although 2012 would typically be an interim assessment year, the assessor revalued and changed the 2012 value

of Pierre-Louis' property from what it was the previous year. As a result, all grounds of appeal are available. *Eagle Food Centers, Inc. v. Bd. of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

Pierre-Louis protested to the Board of Review that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2), that there was an error in the assessment under section 441.37(1)(a)(4), and that there was a change in value since the last reassessment under 441.37(1)(b) and its reference to section 441.35(2). Pierre-Louis' error claim is essentially one of over-assessment. Additionally, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change or error as separate claims and consider only the claim of over-assessment. Pierre-Louis requested a reduction in value to \$270,000. The Board of Review granted the protest, in part, and reduced the assessment to \$273,680, allocated \$54,990 in land value and \$218,690 in dwelling value.¹

Pierre-Louis then filed the appeal with this Board based on the same ground. The Notice of Appeal & Petition form states that the property sold in November 2011² for \$270,000 in an arm's-length transaction, not the result of a foreclosure or short sale. In Pierre-Louis' opinion, the sale price reflects the property's correct fair market value. Pierre-Louis requests the \$270,000 market value be allocated \$54,990 to land value and \$215,010 to dwelling value. We note Pierre-Louis did not provide an appraisal of the subject property or any other evidence to support the sales price.

The Board of Review did not provide any evidence to this Board.

¹ Notations on the property record card indicate that recent sales in the Jadestone area supported 10% reductions in dwelling values. We note the reduction made by the Board of Review was roughly 10% of the dwelling value, presumably applying the reduction to account for decline in recent sale prices in the Jadestone area.

² The property record card indicates the sale was in July 2011.

Conclusion 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 assessed at one hundred percent of its actual value. § 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.* In *Riley v. Iowa City Board of Review*, the Court found that the wording of section 441.21(1)(b) indicates that a sales price for the subject property in a normal transaction, just as a sales price of comparable property, is a matter to be considered in arriving at the subject property's market value but does not conclusively establish that value. 549 N.W.2d 289, 290 (Iowa 1996).

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). Here, Pierre-Louis' purchase price was an indication of the subject property's fair

market value, but does not definitively prove it. *Riley*, 549 N.W.2d at 290. Pierre-Louis did not provide any evidence of comparable sales to establish the property's purchase price is its actual value or to demonstrate the assessment is excessive. Further, Pierre-Louis did not offer any additional evidence to support future reduction of the assessment to the purchase price. Pierre-Louis failed to prove by a preponderance of the evidence that the subject property is over-assessed and the fair market value of the property as of January 1, 2012.

Viewing the record as a whole, we find the preponderance of the evidence does not support Pierre-Louis' claim the property was over-assessed as of January 1, 2012. Therefore, we affirm the property assessment as determined by the Board of Review of \$273,680, representing \$54,990 in land value and \$218,690 in dwelling value as of January 1, 2012.

THE APPEAL BOARD ORDERS that the January 1, 2012, assessment as determined by the Bremer County Board of Review is affirmed.

Dated this 18th day of January 2013.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Stewart Iverson
Stewart Iverson, Board Chair

Karen Oberman
Karen Oberman, Board Member

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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>1/18</u> , 201 <u>3</u>	
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 checked="" type="checkbox"/> Other
Signature	<u>[Signature]</u>