

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Christine Mewhirter,**  
Petitioner-Appellant,

v.

**City of Clinton Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 12-102-0717**  
**Parcel No. 80-10270000**

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On May 31, 2013, 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 Christine Mewhirter was self-represented and requested a written consideration. J. Drew Chambers represented the City of Clinton Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

***Findings of Fact***

Christine Mewhirter is the owner of a residential, single-family property located at 1354 8th Avenue South, Clinton, Iowa. The property is a two-story home built in 1929 with 2275 square feet of total living area and a full basement. The home also has a 374 square-foot wood deck area, 200 square feet of concrete patio area, and a 450 square-foot attached garage. The home is of high quality (2-5) grade and is in above-normal condition. The site is 0.273 acres.

Mewhirter protested to the Board of Review regarding the 2012 assessment of \$188,490, allocated as \$21,250 in land value and \$167,240 in improvement value. This is a change from the 2011 assessment. Her claim was based on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). The Board of Review denied her claim.

Mewhirter then appealed to this Board reasserting her claim and stated the property’s correct value is \$175,000, allocated as \$18,000 in land value and \$157,000 in improvement value.

Mewhirter submitted five equity comparables she believes are similar to her property. She included a letter summarizing the properties and comparing them to her property. Additionally, she provided a parcel summary of each property, which she printed from the assessor’s website. While the parcel summaries provide some information about each comparable, we note they are not complete property record cards. As such, the quality and condition of these properties are unknown. These factors, among others, may contribute to differences in the assessed values. The following is a summary of Mewhirter’s equity comparables.

<b>Comparable</b>	<b>Address</b>	<b>Year Built</b>	<b>Land Value</b>	<b>Site size</b>	<b>Improvement Value</b>	<b>Total Assessment</b>	<b>Square Footage</b>	<b>AV/SF</b>
Subject	1354 8th Ave S	1929	\$21,250	0.273	\$167,240	\$188,490	2275	\$82.85
A	1417 Caroline Ave	1941	\$17,328	0.314	\$127,785	\$145,113	2161	\$67.15
B	1355 Caroline Ave	1929	\$31,331	0.470	\$151,069	\$182,400	2440	\$74.75
C	706 Terrace Dr	1924	\$24,368	0.357	\$126,683	\$151,051	2046	\$73.83
D	703 Terrace Dr	1925	\$33,592	0.496	\$141,189	\$174,781	1913	\$91.36
E	1601 8th Ave S	1969	\$41,306	1.870	\$154,907	\$196,213	2317	\$84.68

We note the subject property’s assessed value per-square-foot falls within the range of Mewhirter’s proffered comparables.

Mewhirter explained that 1417 Caroline Avenue is located at the end of a cul-de-sac, on a slightly larger site, and “adjacent to the Arboretum.” For these reasons, she believes her smaller lot should have a lower assessed value. Additionally, she notes this property is roughly 100 square-feet smaller than her property, but there is roughly a \$40,000 difference between the improvements assessed value. Because the grade and condition rating of this property is unknown, we are unable to determine if they may contribute to the difference in value.

1355 Caroline Avenue is a neighboring property of similar style and year built as the subject. Mewhirter believes it is a superior location, on a quieter street with a “much larger lot” (0.47 acres)

and that it has more living area than the subject property (165 square-feet). Further, she asserts this property is in “immaculate condition” compared to her property and, as such, her assessment should be \$159,051. Similarly, Mewhirter did not provide the complete property record card for 1355 Caroline Avenue and, as a result, we cannot fully compare the properties’ amenities, condition, grade, and other characteristics.

706 Terrace is also a neighboring property, similar in style and year built. Mewhirter explains this property is 229 square-feet smaller than her property but there is a roughly \$40,000 difference in improvement value. Again, the grade and condition rating of this property is unknown and it may explain the difference. Further, although this property’s site is slightly larger, Mewhirter asserts it is on a “quiet street” and it is in “a more desirable location.” Ultimately, based on these differences, she believes her property assessment should be \$159,496 when compared to this property.

703 Terrace Drive is a neighboring home offering similar style and age. However, Mewhirter points out the site is nearly twice as large as her site. She notes this property was listed for sale for \$174,900 and sold for \$168,000, however the date of sale was not provided. The property summary sheet does not provide any information on this sale. Mewhirter points out the property summary sheet indicates the size of this property is 1913 square-feet, whereas the listing sheet indicates the property has 2230 square-feet of living area. Lacking any other information regarding this property, it is unknown which document has the correct living area. Assuming the sale price is accurate, the indicated sale ratio (assessed value divided by sale price) is 1.04.

Lastly, Mewhirter considered 1601 8th Avenue South. According to the property summary, it sold in June 2010 for \$195,000. Its indicated sale ratio is 0.99. However, this property was built in 1969 compared to the subject property’s year built of 1929. Because the home is forty years newer than the subject property and the exterior of the home does not appear to be of similar style or quality

to the subject, we do not find it to be a sufficiently similar property for use as a comparable in an equity analysis.

Based on Mewhirter's analysis, she believes the correct assessment should be between roughly \$150,000 and \$166,000. Ultimately, however the analysis is insufficient for an equity claim. An equity analysis typically compares *prior year sale prices* (2011 sales in this case) or established market values to the *current year's assessment* (2012 assessment) to determine the sales ratio. Because we do not find the property located at 1601 8th Street South to be sufficiently similar for equity comparison, this leaves only one sale (703 Terrace Drive) for analysis. Although the evidence is incomplete, what is asserted indicates 703 Terrace Drive may be slightly over-assessed. However, one sale is insufficient to support an equity claim and Mewhirter did not provide any evidence of the market value of her remaining equity comparables to complete a sales ratio analysis. Therefore, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed.

The Board of Review did not provide any evidence.

### ***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 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. § 441.21(1)(b). 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).

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. Shivers*, 133 N.W.2d 709 (Iowa 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 *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Mewhirter did not assert that the assessor applied an assessment method in a non-uniform manner to the subject property. Altogether, Mewhirter did not provide sufficient evidence to determine whether the properties she offered in support of her claim are “similar and comparable.” Furthermore, only one of her equity comparables had sold and she did not provide evidence of the remaining comparables’ actual values, as shown by an appraisal or sales, for comparison with their assessed values. This evidence is required in order to conduct a sale-ratio analysis under *Maxwell*.

THE APPEAL BOARD ORDERS the assessment of Christine Mewhirter’s property located at 1354 8th Avenue South, Clinton, Iowa of \$188,490 as of January 1, 2012, set by the City of Clinton Board of Review, is affirmed.

Dated this 25th day of June, 2013.

Stewart Iverson  
Stewart Iverson, Presiding Officer

Jacqueline Rypma  
Jacqueline Rypma, Board Member

Karen Oberman  
Karen Oberman, Board Member

Copies to;

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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>June 25, 2013</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 type="checkbox"/> Other
Signature	<u>Jean Cooper</u>