

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joe & Jennifer Highbarger,
Petitioners,

v.

Dallas County Board of Review,
Respondent.

ORDER

Docket No. 12-25-0639
Parcel No. 16-05-151-048

On January 2, 2013, 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 Joe and Jennifer Highbarger were self-represented and requested a written consideration. County Attorney Wayne M. Reissetter is counsel for the Board of Review. The Appeal Board now having examined the entire record and being fully advised finds:

Findings of Fact

Joe and Jennifer Highbarger are the owners of property located at 655 Spyglass Court, Waukee, Iowa. The real estate was classified residential on the January 1, 2012, assessment and valued at \$468,760, representing \$75,000 in land value and \$393,760 in improvement value. Although 2012 would typically be an interim assessment year, the assessor revalued and changed the 2012 value of the Highbargers' property from what it was the previous year. As a result, all grounds of appeal were available to the Highbargers. *Eagle Food Centers, Inc. v. Bd. of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The Highbargers protested their assessment to the Dallas County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section

441.37(1)(a)(2). They asserted the correct value was \$428,500, and provided an appraisal as support for their position.

The Board of Review denied the protest stating simply that the Highbargers “failed to substantiate [their] burden of proof.”

The Highbargers reasserted their claim to this Board.

The property record card indicates the subject property is a two-story home built in 2005. It has 3373 square-feet of above grade living area, and a full, walkout basement with 1198 square-feet of living-quality finish. Additionally, the subject has a deck, patio, open porch, and a four-car garage. The subject property is in normal condition with high quality grade (2) finish. The site is 0.745 acres.

The Highbargers purchased the property in an arm’s length transaction on December 5, 2011, for \$420,000. They provided an appraisal completed by Ron McWilliams with Rels Valuation, Urbandale, Iowa. The appraisal has an effective date of November 16, 2011. McWilliams developed the sales comparison approach to value and the cost approach to value. He used three closed sales and two active listings in his comparison analysis. We give most consideration to the closed sales, although we note the listings were on the market prior to the January 1, 2012, assessment date and would reasonably reflect the upper end of the market at that time. All of the sales are two-story homes like the subject and range in gross living area (GLA) from roughly 2900 square feet to just over 3600 square feet. By comparison, the subject has a GLA of 3426 square feet. The sale properties are older than the subject property but have similar quality grades. The photos in the appraisal report, although black and white, and grainy, demonstrate the properties are reasonably comparable from an exterior appeal to the subject property. After adjustments, the sales indicate a close value range from \$428,500 to \$429,500. From this range, McWilliams opined a value of \$428,500 for the subject property. McWilliams also developed the cost approach with a conclusion of \$440,900. He gave most

consideration to the sales comparison approach. We find the appraisal fairly represents the market value of the subject property as of January 1, 2012.

The Highbargers submitted their closing settlement statement which illustrates they paid \$420,000 for the property. Additionally, they provided one page of the multiple listing (MLS) report for another comparable property also located Spyglass Court. The MLS indicates the property was originally listed for \$450,000, and sold in just over ninety days on the market. The listing does indicate the seller was “motivated” and that there were incentives being offered such as closing costs. Ultimately, we have no evidence in the record to determine that the price paid for the property, or the McWilliams’ conclusions do not represent the fair market value of the subject property. We find McWilliams’ appraisal to be the best evidence in the record of the subject property’s value.

The Board of Review did not offer any evidence. Moreover, we note they did not provide any critique of McWilliam’s appraisal.

Based on the foregoing, we find the Highbargers have provided sufficient evidence to support their claim of over-assessment.

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. 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.

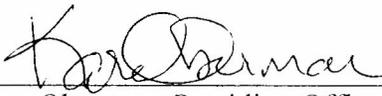
§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

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).

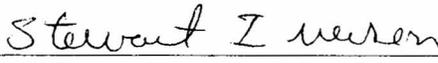
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, we note the Highbargers purchased the property within weeks of the assessment date for less than the assessed value. This, along with McWilliams' appraisal, indicates the property is over-assessed. Further, we find the appraisal to be the best evidence in the record regarding the subject property's fair market value. Its November 16, 2011, effective date is only weeks prior to the January 1, 2012 assessment. The Board of Review did not offer a critique of McWilliam's appraisal, which would cause this Board to find that it is not reflective of the subject property's value. The preponderance of the evidence supports the Highbargers' over-assessment claim.

THE APPEAL BOARD ORDERS the assessment of Joe and Jennifer Highbarger's property located at 655 Spyglass Court, Waukee, Iowa, as of January 1, 2012, is modified to a total value of \$428,500, allocated as \$65,000 in land value and \$363,500 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 Dallas County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcel shall be corrected accordingly.

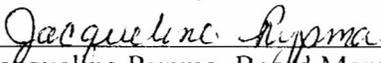
Dated this 22 day of JANUARY, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, 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>1-22</u> , 2013	
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	