

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Travis & Katie Klohs,

Petitioners-Appellants,

v.

Dallas County Board of Review,

Respondent.

ORDER

**Docket No. 12-25-0676
Parcel No. 12-13-154-007**

On January 2, 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 Petitioners Travis and Katie Klohs were self-represented and provided evidence in support of their position. County Attorney Wayne M. Reisetter is counsel for the Board of Review. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

Travis and Katie Klohs are the owners of a residentially classified property located at 15314 Northview Drive, Urbandale, Iowa. The property is a two-story, frame home with 2757 square-feet of gross building area, built in 2005. It has a full, walk-out basement with 700 square feet of living-quarter finish. Additional improvements include a patio, deck, small open porch, and a three-car attached garage. The site is 0.344 acres.

The Klohs protested to the Dallas County Board of Review regarding the January 1, 2012, assessment of \$400,140, allocated as \$72,490 in land value and \$327,650 in improvement value. The January 1, 2012, assessment of the subject property did not change from the prior year's assessment.

Klohs petition to the Board of Review was on the ground that there has been a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2).

The Board of Review denied the petition stating the “taxpayer has failed to provide sufficient evidence to support the claims raised in their petition.”

Klohs then appealed to this Board reasserting their claim that there had been a change downward in value. The Klohs’ written statement and evidence essentially asserts a claim that their property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). Because there was no change in value from the previous assessment and the claim of over-assessment was not made before the Board of Review, the only ground this Board can consider on appeal is that there has been a change in value since the last reassessment. 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 Klohs purchased the property in 2012, and submitted a copy of a purchase agreement dated March 13, 2012. The purchase price was \$307,500, which included \$4500 in seller concessions.

They also provided an appraisal completed by Jim Cleven of Cleven Appraisal Company, Waukee, Iowa. The appraisal has an effective date of April 5, 2012. Although this is after the January 1, 2012, assessment date, all of the sales considered by Cleven occurred prior to the assessment date. Cleven developed the sales comparison approach to value and the cost approach to value. He used five closed sales in his comparison analysis and one active listing. We will only consider the five closed sales, which all had reported contract dates between May and September 2011. All of the sales are two-story homes like the subject; are similar in year built; and range in gross living area (GLA) from roughly 2300 square feet to just over 3100 square feet compared to the subject which has a GLA of 2757 square feet. The photos in the appraisal report demonstrate that the properties are reasonably

comparable from an exterior appeal to the subject property. After adjustments, the sales indicate a value of \$322,000 to \$347,000. From this range, Cleven opined a value of \$335,000 for the subject property. Cleven also developed the cost approach with a conclusion of \$336,215. We find the appraisal to fairly represent the market value of the subject property as of January 1, 2012.

The Board of Review did not offer any evidence or provide any critique of Cleven's appraisal.

While the Klohs provided evidence that the subject property's fair market value is \$335,000, as of January 1, 2012; they failed to support an opinion of market value as of January 1, 2011. Both the 2011 and 2012 values are necessary to establish a change in value since the last assessment. *Equitable Life Ins. Co.*, 252 N.W.2d at 450.

Because the Klohs have reasonably demonstrated the value of their property is less than the current assessment, we encourage them to have discussions with the Dallas County Assessor's office for their January 1, 2013, assessment. Likewise, we encourage the Board of Review to consider this evidence if an appeal based on the ground of assessed for more than authorized by law were to be filed for the January 1, 2013, assessment date.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of change in value for the January 1, 2012, assessment date.

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 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. *Equitable Life Ins. Co.*, 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. Although the Klohs provided evidence of the January 1, 2012, fair market value of their property; ultimately, they did not provide any evidence of the January 1, 2011, fair market value. *Both values are required to support a claim of change in value. Id.* at 450.

The APPEAL BOARD ORDERS the assessment of the property owned by Travis and Katie Klohs located at 15314 Northview Drive, Urbandale, Iowa, of \$400,140 as of January 1, 2012, set by the Dallas County Board of Review, is affirmed.

Dated this 22 day of January, 2013.

Karen Oberman
Karen Oberman, Presiding Officer

Stewart Iverson
Stewart Iverson, Board Chair

Jacqueline Rypma
Jacqueline Rypma, Board Member

Cc:

Travis and Katie Klohs
15314 Northview Drive
Urbandale, Iowa 50323
PETITIONERS

Wayne Reisetter
207 N 9th Street, Suite A
Adel, Iowa 50003
ATTORNEY FOR RESPONDENT

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	<u>[Handwritten Signature]</u>