

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Tyler Klima,
Petitioner-Appellant,

v.

Delaware County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-28-0421
Parcel No. 631-32-20-010-00

On July 15, 2013, the above-captioned appeal came on for hearing 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-Appellant Tyler Klima submitted evidence in support of his petition and was self-represented. Delaware County Attorney John Bernau represented the Board of Review at hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Tyler Klima, owner of property located at 111 East Main Street, Manchester, Iowa, appeals from the Delaware County Board of Review decision reassessing his property. According to the property record card at the time of the protest, the improvements consist of a two-story, brick building having 3300 square feet of gross building area built in 1883. The property is also improved by a 770 square-foot garage, a 308 square-foot garage, a 308 square-foot enclosed porch, and a 450 square-foot wood deck. These improvements were built between 2000 and 2011. The building is in above-normal condition and is graded below-average quality (5+00). It has 55% physical depreciation, 10% functional obsolescence, and 30% economic obsolescence. It is located on a 0.058-acre site.

The real estate was classified commercial on the January 1, 2012, assessment and valued at \$91,600, representing \$4800 in land value and \$86,800 in improvement value. This was an increase from the previous year's assessment.

Klima protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the county under Iowa Code section 441.37(1)(a)(1) and that there was an error in the assessment under section 441.37(1)(a)(4). According to his calculations, the subject property is 22 x 115 feet (2530 square feet), not 22 x 124 feet (2728 square feet).¹ His comment in the error section appears to also claim the property was assessed for more than authorized by law under section 441.37(1)(a)(2). The Board of Review denied the protest.

Klima then appealed to this Board reasserting his claims. He claimed \$72,974, allocated \$4800 to land value and \$68,174 to improvement value, and was the actual value and a fair assessment of the property. He identified other commercial buildings in Manchester and the assessed value of each that he believed supported his claims.

Exhibit	Address	GBA	Improv. AV	Improv. AV PSF	Land EFF	Land AV	Land AV PFF
1	Subject Property	3300	\$ 86,800	\$26.30	21.12	\$ 4800	\$ 227
8	113 E Main	2530	\$ 53,500	\$21.15	21.12	\$ 4800	\$227
9	111 S Franklin	5500	\$ 68,700	\$12.49	45.76	\$10,300	\$ 225
10	107 S Franklin	6600	\$ 85,700	\$12.98	48.88	\$11,000	\$ 225
11	111 N Franklin	2462	\$ 29,800	\$12.10	23.00	\$5800	\$ 252
12	100 N Franklin	4100	\$ 59,400	\$14.49	1659 sf	\$3300	\$ 2 psf
13	120 N Franklin	2464	\$72,100	\$29.26	26.60	\$6700	\$ 252
14	116 S Franklin	4310	\$53,000	\$12.30	42.14	\$9500	\$ 225

Excluding the subject property, the assessed values of the improvements ranges from \$12.10 to \$29.26 per-square-foot with a median of \$14.49 per-square-foot. The subject property's improvements are assessed at \$26.30 per-square-foot, which is at the high end of the range. We are unable to determine from the evidence presented whether the quality of construction, size, garages, amenities or

¹ According to the property record card, the commercial building has 3300 square feet of gross building area (GBA), without considering the garages and porches/deck area.

other features of the subject property are superior to those of the comparable properties, which would result in an assessment at the higher end of the value range. Again excluding the subject property, the assessed value of the land ranges from \$225 per-effective-front-foot to \$252 per-effective-front-foot with a median of \$225 per-effective-front-foot. The subject property land is assessed at \$227 per-effective-front-foot, which is at the lower end of the range of the comparable properties. The assessed value of both Klima's improvements and land fall within the value ranges of his comparable properties and do not support his claim of inequitable assessment.

Klima also calculated a value for the subject property based on a unique methodology he developed. We do not recite these calculations because Klima did not use a uniform, standard method and his assumptions lack any reliability. He provided only one recent sale of a comparable property, which is insufficient to develop an assessment/sales ratio study in support his equity claim.

This Board requested the Board of Review arrange for the property to be re-measured to address Klima's contentions of errors in the building measurements. The Assessor provided a revised property record card reflecting the corrected measurements and recommending a reduction in improvement value to \$69,600, resulting in a total assessed value of \$74,400 for 2012. In arriving at this value, the Assessor increased the building's functional obsolescence from 10% to 25% and reduced the gross building area from 3300 square feet to 3124 square feet. These modifications result in assessed improvement value per-square-foot of \$22.28.

Reviewing the record, while the evidence does not support the claims of inequitable assessment or over-assessment, we find the preponderance of the evidence does support Klima's claim of error in the assessment as of January 1, 2012. We modify the assessment accordingly.

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. *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).

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. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between

assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The preponderance of the evidence does not support Klima's claim that his property is inequitably assessed.

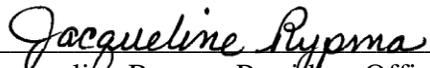
Section 441.37(1)(a)(4) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(a)(4), on which the appellant rests his claim, allows a protest on the ground "[t]hat there is an error in the assessment." § 441.21(1)(d). The administrative rule interpreting this section indicates that the error may be more than what is alleged by the Board of Review. While "[a]n error in the assessment *would most probably* involve erroneous mathematical computations or errors in listing the property[,] [t]he improper classification of property also constitutes an error in the assessment." Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). This language suggests that other errors may constitute grounds for appeal pursuant to section 441.37(1)(a)(4). The evidence shows there was a listing error in the measurement of the building improvements supporting Klima's error claim.

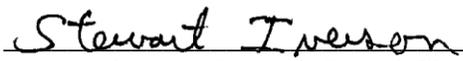
Viewing the record as a whole, we determine the preponderance of the evidence does not support Klima's claims of inequitable assessment or over-assessment as of January 1, 2012. However, it does support his claim of error in the assessment. Therefore, we modify the Klima property's assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2012, is \$74,400, representing \$4800 in land value and \$69,600 in improvement value.

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

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Delaware County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 4th day of October, 2013.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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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 <u>October 4, 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	