

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Bruce Droessler,
Appellant,

v.

Jackson County Board of Review,
Appellee.

ORDER

Docket No. 12-49-0678
Parcel No. 440330352003000

On February 4, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Bruce Droessler was self-represented. Attorney Brett Ryan represented the Jackson County Board of Review. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Bruce Droessler is the owner of a residentially-classified dwelling located at 31967 Smith Ferry Road, Bellevue, Iowa. According to the property record card, the dwelling was constructed in 1960, has 480 square feet of living area, and no heat. It is located on leased land abutting the Mississippi River, which is owned by the United States Army Corp of Engineers. The property was assessed for a total of \$56,100, allocated as \$20,100 in dwelling value and \$36,000 in site improvements value as of January 1, 2012. This was an increase from the 2011 assessment of \$28,100.

Droessler protested the 2012 assessment to the Board of Review on the grounds that the property's assessment was inequitable as compared to other like property in the taxing district and the property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a) and (b).

He asserted the correct fair market value was \$23,500. The Board of Review denied the protest.

Droessler then appealed to PAAB.

On appeal, Droessler asks that the site improvement value be removed and his assessment be lowered to \$20,100, or \$41.88 per-square-foot. He believes that neither the Iowa Department of Revenue REAL PROPERTY APPRAISAL MANUAL nor Iowa law permits site improvement valuations on land owned by the government.

Droessler testified that he leases the land on which the dwelling is located from the Army Corp of Engineers under a 10-year lease for an annual payment of \$2,225. (Exhibit 19). He stated that he bought this property in June 2004 for \$22,000.

He presented a listing of assessments of property located on Smith Ferry Road showing that if their site improvement values were removed, the average price per-square-foot of the dwellings would be approximately \$62.97. (Exhibit 16). He asserts that dwellings capable of year-round living in Jackson County are generally assessed at \$60.00 per-square-foot. (Exhibit 19). In contrast, Jackson County dwellings only suitable for seasonal living are assessed at approximately \$40.00 per-square-foot.

Droessler reports that the average assessment of 40 leased land properties on Smith Ferry Road in Jackson County, including the site improvement and dwelling value, was \$104.91 per-square-foot. For comparison, his property is assessed at \$116.88 per-square-foot. We note that as one of the smallest properties on Smith Ferry Road, it is reasonable to expect that the subject's per-square-foot value would be higher than the average. *See* APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 31-32 (14th ed. 2013) (discussing the law of decreasing returns). Essentially, a smaller the property is likely to have a higher per-square-foot value as compared to a larger property. *See* APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 120 (5th ed. 2010) (defining marginal utility).

Droessler also submitted data concerning assessments of dwellings on leased land in Dubuque, Clayton, Clinton, and Scott counties and he asserts these counties do not include a site improvement value in their assessments. (Exhibits 9-12). We do not find this data relevant to a claim that the subject property is not equitably assessed as compared to other property in the taxing district. We also find the most relevant comparables are those properties located on leased land with Mississippi River access on Smith Ferry Road in Jackson County. As a result, we give no consideration to any comparable properties located on privately owned land, located outside of Jackson County, or that lack Mississippi River access.

Lori Roling of the Dubuque County Assessor's Office testified at hearing on behalf of the Board of Review. Her testimony related to a June 2012 conversation she had with Droessler. (Exhibit C). She reported that Droessler indicated that he would not sell the subject property and his rights to the property for less than the assessed value. He also suggested to Roling that buying this property was a good investment for him.

Jackson County Assessor Troy Patzner also testified on behalf of the Board of Review. He stated the sales data prior to the 2012 assessment showed that properties located on leased land were selling for amounts well-above their assessed values. When questioned, Patzner explained that the site improvement value reflects the value of the dwellings' location, landscaping, excavation, and utilities to the dwelling itself.

The Board of Review submitted sales data for ten properties located on leased land that sold between April 2010 and June 2013. (Exhibits D & E). The sales ranged from \$50,000 to \$215,000. Nine of the sales sold above their assessed value at the time, with assessment/sales-price ratios ranging from 24 to 1.19. Three of the sales were single-story dwellings located on Smith Ferry Road built in the late 1950s and early 1960s with less than 720 square-feet of living area – 33669, 31733, and 32127 Smith Ferry Road. These properties sold between September 2011 and March 2012 for \$213,000,

\$50,000, and \$62,000 respectively. We find these sales to be the best comparable properties in the record and indicate the subject property's assessment is consistent with sales prices of similar properties.

Finally, Robert Ehler, President of Vanguard Appraisals, Inc., testified for the Board Review concerning the 2012 revaluation his company completed for residential property in Jackson County on behalf of the Assessor. He stated his belief that the lease rate of Army Corp of Engineers land are below-market and that correspondingly results in an increase in the value of leasehold interest to the lessee and sale prices of properties with a lease. He indicated that the reassessment attempted to capture the full market value of the property rights and that was included in the site improvement value.

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).

Droessler's appeal requests removal of the \$36,000 value applied to site improvements, which would result in a \$20,100 assessment of his dwelling. The Board of Review argues that its assessment

is supported by sales data of comparable properties on leased land and represents the property's fair market value.

Where buildings or improvements are erected by any person other than the owner of the land, the buildings or improvements are listed and assessed to their owner as real estate. § 428.4. For property tax purposes, land and water rights are subject to assessment and taxation as real property unless they qualify for an exemption. § 427A.1(a). The Iowa Code provides an exemption for property owned by the federal and state government. § 427.1(1). However, other Code provisions provide that where property is leased, even from an exempt organization, the lessee's interest is subject to assessment and taxation. § 427.15 (interest of lessee of land belonging to state institution is subject to assessment and taxation); § 461A.25 (leasehold interest of public land under the jurisdiction of the Natural Resource Commission are to be listed, assessed, and taxed).

A. Equity Claim

Droessler claims that the assessment of his property is not equitable as compared with assessments of other like property in the taxing district. § 441.37(1)(a). The term "taxing district" refers to property within the jurisdiction of the assessor and board of review. *Maytag Co. v. Partridge*, 210 N.W.2d 584 (Iowa 1973). While Droessler pointed to other counties that did not include site improvement values in their assessment, assessments in another district cannot be used for a comparative equity analysis. *Id.*

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). The record demonstrates that the Assessor applied a site improvement value to all leased properties on the Smith Ferry Road in Jackson County. (Exhibit 16). While the amount of obsolescence applied to the value differed amongst these properties, the subject property received one of the largest adjustments.

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 711. 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.

Droessler did not submit any recent evidence of his property’s actual value and there was insufficient data to complete a *Maxwell* analysis. We find that Droessler failed to show his property is inequitably assessed under either the *Eagle Food Center* or *Maxwell* tests.

B. Assessed for More than Authorized by Law Claim

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. *Id.* “Market value” essentially is defined as the value established in an arm’s-length sale of the property. § 441.21(1)(b). 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).

Here, the assessment of Droessler’s improvements and the ability of his property to be situated and usable on this leased land should be at their fair market value. § 441.21(1)(a). Droessler

essentially argues that Iowa law does not permit the assessment of site improvements on land leased from the government to the owner of a building thereon. Regardless of the wisdom of the use of the term “site improvements,” we find that the assessment as whole attempts to capture the full fair market value of Droessler’s property and his rights thereto. In that regard, the record is clear that fair market value of Droessler’s assessable improvements and land rights exceeds his requested value of \$22,100.

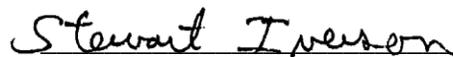
The sales evidence in the record indicates that other dwellings of similar size on leased land on Smith Ferry Road have sold for \$213,000, \$50,000, and \$62,000. The subject property’s 2012 assessment of \$56,100 is consistent with these sales. Droessler did not submit an opinion of the subject property’s market value, such as a comprehensive market analysis or appraisal. Therefore, we find he has failed to show that his property is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS the January 1, 2014, assessment of Droessler’s property located at 31967 Smith Ferry Road, Bellevue, Iowa, is affirmed.

Dated this 26th day of February, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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