

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Erica Mazza,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-77-0650
Parcel No. 120/05203-056-000

On February 28, 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 Erica Mazza was self-represented. She requested her appeal proceed without a hearing. The Polk County Board of Review is represented by Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Erica Mazza is the owner of a residential, single-family property located at 4218 SW 27th Street, Des Moines, Iowa. The property is a split-level home, built in 1989 with 1330 square feet of total living area, and a full basement with 420 square feet of finish. The property also has 190 square feet of deck area and a 220 square-foot, attached garage. The grade of the property is 3+00 and it is in normal condition. The site is 0.259 acres.

Mazza protested to the Polk County Board of Review regarding the 2012 assessment of \$165,500, which was allocated as follows: \$27,100 in land value and \$138,400 in improvement value. The January 1, 2013, assessment of the subject property did not change from the prior year's assessment. Her claim was based on the following grounds: 1) that the property was assessed for more

that the value authorized by law under Iowa Code § 441.37(1)(a)(2), and 2) that there was a downward change in value under sections 441.37(1)(a)(6) and 441.35(2). Mazza asserted that the correct value was \$122,000.

The Board of Review rejected Mazza's claims.

Mazza then appealed to this Board essentially re-asserting her claims. 2012 was an interim assessment year, and because the property's assessment did not change from the previous year, the only ground available for protest is that there has been a change downward in value since the last assessment. *Eagle Foo Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). Mazza now contends the correct value is \$137,000, allocated as \$27,100 in land value and \$109,900 in improvement value.

Mazza's petition states the property was listed for sale in January 2011 for a price of \$124,000. The home was vacant and left empty for up to nine months. She purchased the property on a short sale for \$122,000; this process took approximately seven months. Mazza further stated that she put approximately \$15,000 into the home. Mazza did not present any other evidence.

The Board of Review provided four comparable properties in a document titled "Protest Comparables." Three properties are split-levels like the subject and the fourth is a single story. These are all arm's-length 2011 sales. These properties are summarized below.

Comparable	Address	Living Area	Sale price	Assessed Value
Subject		1330	\$122,000	\$165,500
1	2518 Emma Ave	1302	\$165,000	\$165,700
2	3008 Thornton Ave	1727	\$156,500	\$168,700
3	2827 Thornton Ave	1717	\$177,000	\$178,200
4	2821 Thornton Ave	1859	\$213,000	\$213,800

The subject property was a short sale and the other four properties were an arms-length transactions. As a short sale, the subject's sales price maybe an abnormal transaction and unusable without adjustment. Ultimately, Mazza did not provide sufficient evidence of the fair market value of

the subject property as of January 1, 2011 or January 1, 2012. Both values are necessary to establish a change in value since the last assessment.

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).

In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc.*, 497 N.W.2d at 862. Iowa Code section 414.37(1)(b) and its reference to

section 441.35(3) give rise to the claim of downward trend in value. 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. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). 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. In this case, Mazza has failed to provide sufficient evidence of either the 1/1/11 or the 1/1/12 market value to prove her claim.

THE APPEAL BOARD ORDERS the assessment of Erica Mazza's property located at 4218 SW 27th Street, Des Moines, Iowa, of \$165,500, as of January 1, 2012 set by the Polk County Board of Review, is affirmed.

Dated this 11 day of March 2013.

Stewart Iverson

Stewart Iverson, Presiding Officer

Jaqueline Rypma

Jaqueline 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>3-11</u> , 2013	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	<u>[Signature]</u>