

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Damian P. Brunt,
Petitioner-Appellant,

v.

Scott County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-82-0326
Parcel No. 823507206

On December 28, 2012, 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) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Damian P. Brunt was self-represented and requested his appeal proceed without a hearing. Assistant County Attorney Robert Cusack represented the Board of Review. Both parties submitted evidence. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Damian P. Brunt is the owner of property located at 15005 108th Avenue Court, Davenport, Iowa. The real estate was classified residential and valued at \$382,030, representing \$55,900 in land value and \$326,130 in improvement value for the January 1, 2012, assessment.¹

Brunt appealed this assessment to the Scott County Board of Review on the grounds that 1) the assessment was not equitable compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); and 2) there was a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward

¹ Although 2012 would typically be an interim assessment year, in Brunt's case the assessor revalued and changed the 2012 value from what it was the previous year. As a result, all grounds of appeal were available to Brunt. *Eagle Food Centers, Inc. v. Bd. of Review of City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we consider Brunt's claims to be that of inequitably assessed and overassessed.

The Board of Review denied the protest. He then appealed to this Board reasserting his claims.

According to the property record card, the subject property is a one-story, frame home built in 2005. It has 2300 square feet of above grade living area; a full, walkout basement with 1225 square feet of living-quarter finish; and a 1951-square-foot attached garage. It also has several patios, a deck, a wood stoop, and a shed. The subject site is 0.83 acres.

On his petition to the Board of Review, Brunt provided three properties he considered similar for equity comparison.

10981 148th Street sold for \$260,000, on May 23, 2011
 10859 158th Street sold for \$169,000, on November 13, 2011
 825 Utah Avenue sold for \$160,000, on November 1, 2011

Brunt chose not to attend the Board of Review hearing or provide any written commentary about these properties. The assessor's office created a spreadsheet analyzing Brunt's comparables. The following chart provides some of the data presented in the original spreadsheet.

	Subject	Comp 1	Comp 2	Comp 3
Address	15005 10th Ave Ct	10981 148th St	10859 158th St	825 Utah Ave
Total GLA	2300	1842	1556	1964
Grade	2-10	3+10	3-10	C+2
Year Built	2005	2004	1965	1955
Fin Basement ²	1225 LQ / WO	None	161 Standard	None
Garage	1951 Att	792 Att/720 Det	273 Det/400 Det	816 Att
Lot Size	0.83 Acre	0.98 Acre	0.92 Acre	0.42 Acre
Land AV	\$55,900	\$60,000	\$38,350	\$46,060
Bldg AV	\$326,130	\$224,280	\$123,800	\$140,310
Total AV	\$382,030	\$284,280	\$162,150	\$186,370
Sale Date	N/A	4/18/2011	11/10/2011	10/28/2011
Sale Price	N/A	\$260,000	\$169,000	\$160,000
Sale Ratio	N/A	109.34%	95.95%	116.48%
SP/SQ	N/A	\$141.15	\$108.61	\$81.47
AV/SQ	\$166.10	\$154.33	\$104.21	\$94.89

² Walk-out basements are identified as WO. Living-quarter quality finish is identified as LQ.

We find 10981 148th Street³ is the most similar to the subject property in age and style, but the subject has roughly 500 square feet more living area and a finished basement. The record indicates, however, the 720 square-foot detached garage was built after the sale. Because the assessment reflects all of the improvements but the sale price does not, the sale ratio would be skewed.

10859 158th Street is considerably older than the subject property. It is also a lower grade and has very little basement finish. For these reasons, we do not find it sufficiently similar for an equity analysis. The Board of Review's Exhibit A also indicates this sale is located in a neighborhood that would not directly compete with the subject property.

825 Utah Avenue is not located in the Scott County assessment jurisdiction, disqualifying it for equity comparisons. § 441.37(1)(a)(1); *Montgomery Ward Development Corp. v. Cedar Rapids Board of Review*, 488 N.W.2d 436 (1992).

On appeal to this Board, Brunt submitted ten additional properties he believes are comparable to his. He stated he obtained all of the sales information from his local realtor at Ruhl and Ruhl Company. The properties were located in Blue Grass, Eldridge, Bettendorf, and Davenport. The Board of Review put this information into spreadsheets (Exhibit D and Exhibit H). We summarized the information in the following chart:⁴

³ The Board of Review also relied on this sale in its analysis.

⁴ The comparable properties located at 4504 Forest Road, 2906 E 65th Street, and 4640 W 60th Street in Davenport are located in the City of Davenport assessing jurisdiction, and therefore, were not included in the summary charts for equity analysis by the Scott County Board of Review.

Address	Subject	Comp 4 7018 124th St	Comp 5 12360 71st Ave	Comp 6 10991 156th St	Comp 7 14740 109th Ave Ct	Comp 8 101 Park View	Comp 9 5700 Crow Creek	Comp 10 4455 Millwood Ln
Style	1 Sty	2 Sty	2 Sty	2 Sty	2 Sty	1 Sty	1.5 Sty	1 Sty
Total Living Area	2300	2542	2591	2696	2831	2282	3113	2168
Grade	2-10	3+0	3+0	2+0	2-5	2-5	2+0	3+10
Year Built	2005	2000	2001	2007	2005	2002	1984	1996
Basement Finish	1225 LQ	1236 LQ	956 LQ	949 LQ	588 LQ	1200 LQ	675 LQ/225 Avg	1400 LQ
Basement Walkout	Yes	Yes	None	Yes	Yes	Yes	None	None
Garage	1951 Att	708 Att	708 Att	1032 Att	2108 Att	833 Att	976 Att	772 Att
Site Size (Acres)	0.83	4.15	0.775	1.13	0.62	0.30	0.62	0.34
Land AV	\$56,900	\$72,000	\$63,750	\$77,070	\$49,000	\$47,700	\$39,730	51450
Bldg AV	\$326,130	\$277,100	\$264,200	\$296,160	\$370,700	\$288,110	\$299,620	\$273,320
Total AV ⁵	\$382,030	\$349,100	\$327,950	\$373,230	\$419,700	\$335,810	\$339,550	\$324,770
Sale Price	N/A	\$328,000	N/A	\$362,500	\$384,000	\$301,000	\$332,500	\$339,000
Sale Date	N/A	February-12	N/A	August-11	March-12	September-12	March-12	May-12
SP/SQ	N/A	\$129.03	N/A	\$134.46	\$135.64	\$131.90	\$106.81	\$156.37
AV/SQ	\$166.10	\$137.33	\$126.57	\$138.44	\$148.25	\$147.16	\$109.07	\$149.80
Sale Ratio		106.43%	N/A	102.96%	109.30%	111.56%	102.12%	95.80%

⁵ We assume the assessed values are the 2012 assessments.

First, we do not find Comps 4, 5, 6, 7, and 9 comparable to the subject because they are two-story or one-and-a-half story homes rather than one-story designs like the subject.

Comps 8 and 10 are one-story homes like the subject. However, Comp 10's improvements are roughly 10 years older than the subject improvements, and we do not consider it to be sufficiently similar as a result. We find Comp 8 to be the most similar to the subject property. Its sale ratio indicates it is assessed 11.56% higher than the sale price. However, this property sold in September 2012, nine months after the January 1, 2012, assessment date. An equity analysis typically compares *prior year sale prices* (in this case, 2011 sales) to the *current year assessment* (2012 assessment) to determine the sales ratio.

Even though the properties Brunt selected for comparison are not ideal comparables to his property, we recognize that when looking at them as a whole the sale ratios range from 95.80% to 111.56%, with a median ratio of 104.70%. This would appear to indicate a trend of over-assessment. However, because the majority of sales occurred in 2012 and are being compared to the 2012 assessment, this would suggest that the assessments need to be reviewed for the *2013 assessment year*.

The Board of Review considered four properties and put this information into a spreadsheet, Exhibit F. We summarize the information in the following chart:

equitably to other like properties. However, because the sale of Comp D occurred in 2012, and Comps A and C required adjusted assessed values because of improvements completed after the sales, we ultimately give this information limited consideration.

Neither Brunt nor the Board of Review adjusted any of the sales to determine a market value for the subject property.

Ultimately, a totality of the evidence does not establish the subject property is inequitably assessed. This is because 2012 sales were compared to the January 1, 2012, assessment. In this case, 2011 sales should have been compared to 2012 assessments to show inequity. Instead, the information in the record suggests a trend of overassessment for the upcoming 2013 assessment in those selected comparable properties. Even though the information indicates a possible trend of overassessment for the selected comparables in the upcoming assessment cycle, it does not equate to a showing the subject property is overassessed for the 2012 assessment.

Further, no market value was determined for the subject property by adjusting comparable sales for differences.

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.

Address	Subject	Comp A 10890 150th St	Comp B 14735 109th Ave Ct	Comp C 10981 148th St	Comp D 15002 108th Ave Ct
Style	1 Sty	1 Sty	1 Sty	1 Sty	1 Sty
Total Living Area	2300	2386	1849	1842	1719
Grade	2-10	2+0	3+10	3+10	3+5
Year Built	2005	2006	2005	2004	2005
Basement Finish	1225 LQ	165 Rec/1227 LQ	None	None	860 LQ
Basement Walkout	Yes	None	None	None	None
Garage	1951 Att	1022 Att	1044 Att	720 Att/720 Det	1151 Att
Site Size (Acres)	0.83	0.86	0.65	0.98	0.81
Land AV	\$56,900	\$55,900	\$50,400	\$60,000	\$54,500
Bldg AV	\$326,130	\$341,620	\$230,170	\$224,280	\$226,440
Total AV	\$382,030	\$397,520	\$280,570	\$284,280	\$280,940
Sale Price	N/A	\$360,000	\$276,000	\$260,000	\$315,000
Sale Date	N/A	October-10	March-10	April-11	May-12
SP/SQ	N/A	\$150.88	\$149.27	\$141.15	\$183.25
AV/SQ	\$166.10	\$166.61	\$151.74	\$154.33	\$163.43
Sale Ratio		110.42%	101.66%	109.34%	89.19%
Adjusted Sale Ratio		99.71%	N/A	104.83%	N/A

All are one-story homes and have similar year built as the subject property. Comps B and C lack basement finish. The assessor notes the buyer of Comp A took out a permit to finish the basement after the purchase of the property. The October 2010 sales price, therefore, reflects no basement finish, but the January 1, 2012, assessed value does. This difference results in a skewed sale ratio. In an effort to consider this sale, the assessor created an adjusted sale ratio with a total assessed value of \$358,950, which reflects the property before the new owner finished the basement.

The purchaser of Comp C built a detached garage on the property after the sale. Like Comp A, an adjusted sales ratio was calculated using a total assessed value of \$272,560, which was the property's total assessment prior to construction of the garage. Considering the adjusted sale ratios for Comps A and C, the range of the four properties is 89.19% to 104.83%, with a median sale ratio of 100.69%. Essentially, the Board of Review analysis attempts to show the subject property is assessed

§ 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. Shivers*, 257 Iowa 575, 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 579-580. 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.

Although Brunt offered numerous properties as comparables, the majority of these properties were sufficiently different from the subject property and therefore could not reasonably be used in an equity analysis. Further, Brunt computed his sale-to-assessment ratios using sales in the year 2012 and compared those sales to the January 1, 2012, assessment. A typical equity analysis compares sales that occurred prior to the assessment date. Here, this would require a comparison of 2011 sales with the January 1, 2012, assessment date. Therefore, while Brunt's evidence could be useful for a claim that his forthcoming January 1, 2013, assessment is inequitable by comparing the 2012 sales to a 2013 assessment, it is not particularly helpful in demonstrating that his property is inequitably assessed as of January 1, 2012.

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). Brunt did not provide sufficient evidence of the subject's fair market value by adjusting comparable sales information to arrive at a value for his property.

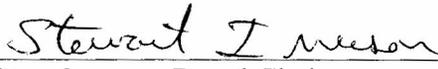
Therefore, we determine the property's assessed value as of January 1, 2012, is \$382,030, representing \$55,900 in land value and \$326,130 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2012, assessment as determined by the Scott County Board of Review be affirmed.

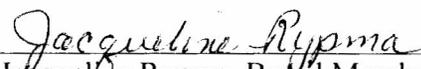
Dated this 31 day of January 2013.



Karen Oberman, Presiding Officer



Stew Iverson, Board Chair



Jacqueline Rypma, Board Member

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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>1-31</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	