

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Bruce & Patricia Garbe,
Petitioners-Appellants,

v.

Woodbury County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-97-0008
Parcel No. 8946-29-300-020

On August 9, 2013, the above-captioned appeal came on for hearing 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. Appellants Bruce and Patricia Garbe were self-represented. County Assessor Kathy Sands represented the Woodbury County Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Bruce and Patricia Garbe are the owners of a residential, single-family property located at 1498 Buchanan Avenue, Sioux City, Iowa. The property is a single-story home built in 1996 with 1848 square feet of total living area. The property has a 768 square-foot detached garage built in 1964; a 2438 square-foot steel utility building; and a 323 square-foot shed. The improvements are reported as average quality (grade 4+00) and in normal condition. The site is 2.37 acres.

The Garbes protested to the Board of Review regarding the 2012 assessment of \$141,810, which was allocated as follows: \$28,750 in land value and \$113,060 in improvement value. This was a change from the 2011 assessment. Their claim was based on the following grounds: 1) the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); 2) the property was assessed for more than the value authorized by law under section

441.37(1)(a)(2); and 3) the property is misclassified under section 441.37(1)(a)(3). They asserted the subject property should be classified as agricultural realty and its correct value is \$130,000.

The Board of Review denied their claim after inspection of the property.

The Garbes then appealed to this Board re-asserting their claims. At hearing, Bruce Garbe conceded to the current residential classification; therefore, we will only address the equity and over-assessment claims.

As previously noted, the January 1, 2012, assessment was a change from the January 1, 2011, assessment. The land value increased in 2012 by \$5,750, while the improvement value decreased by \$8,790. This resulted in a net reduction of \$3,040 in the January 1, 2012, assessed value. Garbe testified he believed the property's land value should be lowered to the 2011 land value (\$23,000), and the improvement value should be \$113,060. We note this would result in a value of \$136,060, just shy of the \$140,000, Garbes' December 2011 purchase price for the property.

Garbes submitted print-outs from the assessor's website of five properties on Buchanan Avenue. In addition, they prepared a land analysis of these properties. Bruce Garbe asserted this evidence demonstrates the property is not equitably assessed. In his opinion, the analysis demonstrates that his acreage has the highest price-per-acre value compared to other properties located on Buchanan Avenue. To arrive at his conclusion, Garbe divides the total assessed site value and by the total size to determine an assessed value per acre. The following chart summarizes his analysis.

Address	2012 Assessed Land Value	Total Site Size	AV/Acre
1498 Buchanan (Subject)	\$28,750	2.37	\$12,130.80
1504 Buchanan	\$28,750	2.43	\$11,831.28
1499 Buchanan	\$33,750	4.67	\$7,226.98
1491 Buchanan	\$33,750	4.56	\$7,401.32
1500 Buchanan	\$41,000	8.88	\$4,617.12
1487 Buchanan	\$37,000	6.83	\$5,417.28

The subject property, as well as the properties on 1504, 1499, and 1491 Buchanan, have their first acres rated as Above Normal (AN) and their excess acres rated as AN. 1500 and 1487 Buchanan have their first acres rated as AN; however, their excess acres are rated as Normal (N) because of the limited frontage and access or long drives with steep slopes.

While Garbe's evidence would seem to indicate his property is valued slightly higher on a per-acre basis, there are several flaws with his analysis. First, this is not how the land value was determined by the assessor; and second, this analysis does not recognize that larger sites would typically have a lower value per acre..

Regarding his market value claim, Garbe believes the fair market value of the subject property, as of January 1, 2012, was \$125,000. However, he did not provide any evidence to support this opinion.

Assessor Kathy Sands testified the subject's site value increased from the 2011 to 2012 assessment because it was previously reported incorrectly and rated as being located on a gravel road when, in fact, it is located on a paved road. Therefore, the 2012 assessment of subject site was corrected to an AN rating to reflect its location on a paved road.

Sands further explained the method used to determine the site values. For all rural residential acreages, the first acre is valued at \$25,000 an acre. The subject property and 1504 Buchanan, which had sites less than three acres had the remaining excess site valued at \$3750. 1499 and 1491 Buchanan, both of which are slightly larger sites, at just over four acres in size, had the remaining excess site valued at \$8750. The largest acreages at 1500 and 1487 Buchanan, with roughly seven to nine acres, had the remaining excess site valued at \$16,000. And 1487 Buchanan had a downward adjustment to its excess land to reflect it is longer than typical driveway with steep slopes resulting in the excess acres being valued at \$12,000.

Sands also provided Exhibit D, a rural residential sales ratio report for 2011 and 2012 sales. The median for all rural residential sales in Woodbury County was 99.84. The median for Concord Township where the subject is located is 99.24. In Sands opinion, this demonstrates that the properties are fairly and equitably assessed. We found Sands to be knowledgeable, professional, and thoughtful in her deliberation and analysis.

Finally, the Board of Review provided Exhibit G, which lists the original properties Garbe submitted as equity comparables on his protest form. One of the properties has an agricultural classification and is therefore not comparable for equity purposes. None of the remaining properties recently sold, and a sales ratio analysis could not be established. Regardless, neither Garbe nor the Board of Review dwelled on this analysis as support for their positions. Therefore, we give it no consideration.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed or over-assessed.

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).

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*, 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."

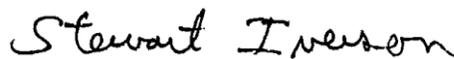
Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa 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.

The Garbes did not provide sufficient evidence to support an assertion that the assessor applied an assessment method in a non-uniform manner to the subject property. While Garbes believe the total assessed land value divided by the total site size indicates a lack of uniformity in the assessment, we find his analysis to be flawed. The Board of Review demonstrated a uniform application of the assessing method was used. Further, the Garbes did not provide evidence of the comparables' actual values, as shown by an appraisal or sales, for comparison with their assessed values. This evidence is required in order to conduct a sale-ratio analysis under *Maxwell*. For these reasons, we find that they have failed to meet the evidentiary burden to succeed on their inequity claim.

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). The Garbes did not provide any evidence establishing the subject property's correct value as of January 1, 2012. The only evidence of the subject property's market value is the December 2011 sale price of \$140,000, which supports the assessed value.

THE APPEAL BOARD ORDERS the assessment of Bruce and Patricia Garbes property located at 1498 Buchanan Avenue, Sioux City Iowa of \$141,810 as of January 1, 2012, set by the Woodbury County Board of Review, is affirmed.

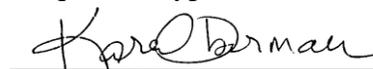
Dated this 27th day of August 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

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<p>Certificate of Service</p> <p>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>August 27, 2013</u>.</p> <p>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</p> <p style="text-align: center;"></p> <p>Signature _____</p>
