

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Heather Seemann,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 13-07-0461
Parcel No. 8912-19-129-008

On February 6, 2014, 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. Appellant Heather Seemann was represented by Neal Seemann. Assistant Black Hawk County Attorney David Mason represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Heather Seemann, owner of property located at 2301 Idaho Street, Waterloo, Iowa, appeals from the Black Hawk County Board of Review decision reassessing her property. According to the property record card, the subject property is a one-story, frame dwelling built in 1980 with 1472 square feet of total living area, a full basement with 700 square feet of finish, an 864 square-foot attached garage, a patio, a deck, and an open porch. It is listed as an average quality grade (4+10) and is listed in normal condition. The site is 0.462-acres.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$91,510, representing \$11,790 in land value and \$79,720 in dwelling value.

Seemann protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). Her petition to the Board of Review sought an assessment of \$45,000. The Board of Review denied the petition.

Seemann then filed her appeal with this Board and claimed the same ground. She again asserts the actual value of the property is \$45,000, allocated \$7000 to land value and \$38,000 to dwelling value. We note that Seemann appears to also seek to add an additional ground to her appeal before this Board, specifically a claim that the property suffered a downward change in value under sections 441.35(2) and 441.37(1)(b). (Exhibit 1). However, because Seemann did not make that claim to the Board of Review, it is not properly before this Board and we do not consider her downward change in value claim. § 441.37A(1)(b) (stating that “no new grounds in addition to those set out in the protest to the local board of review . . . can be pleaded.”).

Neal Seemann testified the subject property is over-assessed, in part, because of errors in the property record card, including the number of baths and bedrooms, and listing a fireplace, deck, and sheds which do not exist. The subject property was listed for auction by Fannie Mae in September 2012 starting at \$80,000. Heather Seemann’s first bid of \$45,000 was rejected in November 2012. She ultimately purchased the property in March 2013 for that amount. In Neal Seemann’s opinion, the transaction was between a willing buyer and willing seller on the open market and represents fair market value. Based on this, he believes the assessment should be the purchase price of \$45,000 or at most \$50,000. We note that a foreclosure or other forced sale by a lender, financial institution, or governmental agency is not considered a normal, arm’s length transaction and as such may not reflect market value unless adjusted to remove the distorting effect of the abnormal sale condition. Iowa Code § 441.21(1)(b).

Seemann believes that property values in Waterloo are declining and its properties are over-assessed. He submitted two properties he considered comparable to show the decline in values.

(Exhibits 5 & 6). The first, located at 2071 Independence Avenue, was purchased in July 2013 for \$38,650 and is assessed at \$67,550. (Exhibit 5). This transaction is listed as an exchange, trade, gift, or transfer from an estate and, in the absence of any other information about the sale, we question whether it is an accurate reflection of market value.

The second property, located at 2057 Independence Avenue, was not a current sale. (Exhibit 6). It was last purchased in February 2000 for \$11,300 in a sale between family members and is assessed at \$48,700. This transaction is very dated and was not a normal, arm's length transaction. § 441.21(1)(b). Neither of these sales support Seemann's over-assessment claim and we give them no weight.

Acting Assessor T.J. Koenigsfeld testified there may be errors in the listing but the property has not been inspected recently to verify it. He agreed to inspect the property and report any errors in the listing needing correction to this Board. Subsequent to the hearing, Koenigsfeld inspected the property, identified several listing errors, and corrected them as shown below.

Feature	Initial Listing	Corrected Listing
TSFLA	1472	1140
Basement Finish SF	700	None
Bedrooms	4	3
Fireplace	1	None
Full Baths	2	1
Wood Deck SF	400	None
Concrete Patio	288	286
Sheds SF	168	None
Garage SF	864	484

Koenigsfeld's corrections to the subject property listing resulted in a revised assessment of \$72,080, representing \$11,790 in land value and \$60,290 in dwelling value. His revised assessment is the best evidence in the record of the fair market value of Seemann's property as of January 1, 2013.

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 Cnty. 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.* However, the "sales price of the subject property in a normal sales transaction . . . does not *conclusively* establish [market] value." *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Conversely, sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales and sales to immediate family of the seller. § 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).

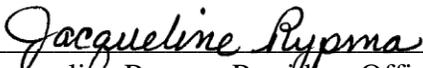
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

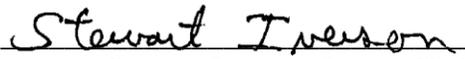
Seemann claims that her property should be assessed for \$45,000 based on her recent purchase from Fannie Mae. The Iowa Code contains a non-exhaustive list of sales transactions that are considered abnormal, including foreclosure sales. § 441.21(1)(b). These sales are not to be considered in arriving at a property's market value, unless they are adjusted to eliminate the effect of factors which distort market value. *Id.* The fact that Seemann purchased the property from a financial institution as a foreclosure makes the transaction abnormal. Thus, the sale cannot be considered for assessment purposes unless adjustments are made to eliminate the distorting effect. However, Seemann's sale price was not adjusted to compensate for the abnormal sale condition. Similarly, one of the sales of Seemann's comparables is abnormal and not adjusted. The remaining sale was an estate sale and we questioned whether it was an accurate reflection of market value. In addition, even if Seemann's purchase had been a normal sales transaction, the subject's sales price would not *conclusively* establish its market value. *Riley*, 549 N.W.2d at 290.

However, Koenigsfeld's inspection identified several listing errors that supported Seemann's over-assessment claim. Viewing the evidence as a whole, we determine the preponderance of the evidence supports Seemann's claim of over-assessment.

THE APPEAL BOARD ORDERS the subject property's assessment, as determined by the Black Hawk County Board of Review, is modified to \$72,080, as of January 1, 2013. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Black Hawk 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 6th day of March, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:
Neal Seemann
2850 Independence Avenue
Waterloo, IA 50707
REPRESENTATIVE FOR APPELLANT

David Mason
Assistant Black Hawk County Attorney
3265 W 4th Street
Waterloo, IA 50701
ATTORNEY FOR APPELLEE

Grant Veeder
Black Hawk County Auditor
County Courthouse, Room 213
316 E. 5th Street
Waterloo, IA 50703
AUDITOR