

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michael C. Watland,
Appellant,

v.

Clay County Board of Review,
Appellee.

ORDER

Docket No. 13-21-0067
Parcel No. 9636-18-137-004

On November 15, 2013, the above-captioned appeal came on for telephone 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 Michael C. Watland was self-represented. County Attorney Michael C. Houchins represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Michael C. Watland is the owner of property located at 18 W 1st Street, Spencer, Iowa. The property was classified residential for the January 1, 2013, assessment valued at \$52,780, allocated as \$7180 in land value and \$45,600 in improvement value. Watland protested his assessment to the Clay County Board of Review appearing to assert every ground available under Iowa Code section 441.37(1). However, after careful review of his petition, it clear he was protesting on the ground the property was assessed for more than authorized by law under section 441.37(1)(a)(2). He asserted the property's correct value was \$50,200. The Board of Review denied the protest. He then appealed to this Board reasserting his claim.

The property record card indicates the subject is an 1195 square-foot, one-and-a-half-story, frame home built in 1900. It does not have a basement. Other features include an open porch and a 216 square-foot, detached garage built in 1920. The site is 0.123 acres.

Watland first testified he believes it is unethical that realtors serve on the Board of Review. For Watland's reference, we note the law requires a realtor serve on the Board of Review. Iowa Code § 441.31.

Watland later noted his belief that it is unfair and inequitable for the Board of Review to increase the value of his property but lower another property by \$10,000. Watland explained he had coffee with a friend and during their conversation, Watland learned his friend's assessment was lowered from "\$88,000 to \$78,000." Watland's assessment protest, however, was denied. Dean Monroe, another friend of Watland's, also testified. Monroe confirmed the conversation took place and that Watland's recollection of the conversation was accurate. He, like Watland, does not believe it is fair for one property to receive such a large reduction and another property to be given no reduction by the Board of Review. We find both Watland's and Monroe's recollections of the conversation appear truthful and honest, but ultimately, it is not relevant evidence.

Watland provided two listings of properties to the Board of Review that he considered comparable to his property. He asserts they are "bigger and newer" than his property. He explained he obtained the listings from the website Realtors.com. The first property, located at 512 E 17th Street, was listed for \$52,000. The seller of this property is the Secretary of Housing and Urban Development (HUD). The property transferred to HUD from a bank, JP Morgan Chase, in December 2012 for \$141,872. Bank of America is the owner of the second listing, located at 1013 W 9th Street. Bank of America obtained the property through foreclosure in October 2012 for \$84,501. It is listed for \$47,500. Watland asserts the Board of Review did not adequately consider the listings he provided. He believes they "glossed over" the listings because they were bank owned.

The Board of Review did not submit any evidence or provide any testimony.

The Certified Record includes some comments from the Assessor on the “Assessment Appeal Information Sheet.” The information includes a grid with five properties in the subject property’s neighborhood that sold between July 2011 and December 2012. The properties are similar overall age, style, and amenities. All of the properties are larger in gross living area than the subject property. Their sales prices ranged from \$60,000 to \$95,000. There is no analysis of the information, no adjustments for differences, and no conclusion of fair market value determined by these sales. However, these unadjusted sales prices average approximately \$78,000; and thus do not generally suggest the subject property is over-assessed.

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 (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. 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 related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But 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 that the assessed value is correct. § 441.37A(3)(a).

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, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property 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 appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property’s correct value. *Boekeloo*, 529 N.W.2d at 276-77.

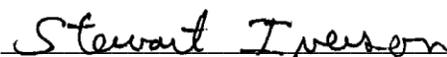
Watland submitted two listings of properties he believed were comparable. There is insufficient evidence in the record for us to determine if the properties are comparable. The properties were unadjusted, active listings, and for these reasons, we do not rely on them as evidence of the fair market value. Moreover, a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. Iowa Code § 441.21(1)(b). Section 441.21(1)(b) states that foreclosures are abnormal transactions. Watland’s two listings are the result of foreclosures and are primarily unreliable for this reason. Ultimately, Watland has failed to provide sufficient evidence of the subject’s January 1, 2013, fair market value.

THE APPEAL BOARD ORDERS the assessment of Michael C. Watland’s property located at 18 W 1st Street, Spencer, Iowa, as determined by Clay County for January 1, 2013, is affirmed.

Dated this 9th day of December, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Michael C. Watland
18 W 1st Street
Spencer, Iowa 51301
APPELLANT

Michael J. Houchins
PO Box 371
Spencer, Iowa 51301
ATTORNEY FOR APPELLEE