

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Danny Janssen,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0417
Parcel No. 181/00219-440-019

On December 20, 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 Danny Janssen was self-represented. Assistant Polk County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board, having reviewed the record and being fully advised, finds:

Findings of Fact

Danny Janssen is the owner of a residentially classified property located at 208 NE Eaglewood Drive, Ankeny, Iowa. The property is a single-story townhome built in 1999 with 1692 square feet of total living area. The property has a full basement with 1100 square feet of finish, a deck, patio, and a two-car attached garage. The site is 0.073 acres.

Janssen protested to the Board of Review regarding the 2013 assessment of \$246,200, allocated as \$43,700 in land value and \$202,500 in improvement value. He claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), asserting the correct total value was \$220,000. Janssen also claimed an error in the assessment under section 441.37(1)(a)(4); however, the error he asserts is over-assessment.

The Board of Review granted the claim, in part, by reducing the assessment to \$235,000, allocated as \$43,700 in land value and \$191,300 in improvement value.

Janssen then appealed to this Board re-asserting his claim.

Janssen purchased the subject property in April 2013 for \$229,000. He states the sale was not a foreclosure or any other type of distressed sale. Further, he believes he paid a premium for the property because he needed a property that he could modify to be handicap accessible. He asserts \$220,000 is the correct value for the subject property. He bases his opinion on three sales built by Kimberly, which he asserts is a similar quality builder. Further, he notes all of the sales are located on NE 32nd Court and are similar style townhomes. The following chart is a summary of the sales.

Address	Size	Basement Finish	2013 Assessed Value	Sale Price	Sale Date
Subject	1692	1100	\$235,000	\$229,000	Apr-13
313 NE 32nd Ct	1477	900	\$208,900	\$200,000	Mar-13
305 NE 32nd Ct	1477	900	\$208,900	\$214,000	Nov-12
317 NE 32nd Ct	1665	900	\$214,800	\$210,000	May-13

First, we note that although the sale of the subject does not conclusively establish a property's market value under Iowa law, it is a matter to be considered and, in this case, tends to suggest the property may be slightly over-assessed. However, the sale price alone is not determinative.

Janssen provided three sales of properties he believes are comparable to his, but he did not adjust the properties for differences such as total living area or basement finish. Further, we note the subject property has two fireplaces, a 528 square-foot attached garage, and a 2+00 grade compared to all three sales, which only have one fireplace, 420 square-foot attached garages, and 3+05 grades.

The Board of Review relied on an Appraiser Analysis completed by appraiser Taylor in the Polk County Assessor's office. The appraiser remarks indicate that townhouse sales within a mile of the subject during 2012 indicate a price range from \$220,000 to \$260,000 with a median sale price of \$235,000.

Additionally Taylor submitted five sales that occurred in 2011 and 2012; noting that all of the sales considered were slightly smaller compared to the subject, but newer. Taylor adjusted the sales for differences, resulting in a value range of roughly \$249,000 to \$274,250. From this range of adjusted sales Taylor asserts the correct market value of the subject is \$260,470, but he does not explain how he reconciled to that conclusion. Regardless, Taylor ultimately recommended to the Board of Review that the correct value of the subject property should be \$235,000 based on the median unadjusted sale prices, as well as the list price of the subject property.

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 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.

§441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. 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).

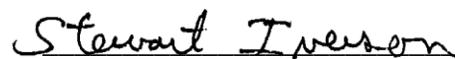
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Janssen provided three sales of similar one-story townhome properties; however, he did not adjust the sales for differences and did not provide the subject property's fair market value as of January 1, 2013. Thus, he failed to show his property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of Danny Janssen's property located at 208 NE Eaglewood Drive, Ankeny, Iowa of \$235,000, set by the Polk County Board of Review, is affirmed.

Dated this 22nd day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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