

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**PVR Investments, LLC,**  
Appellant,

v.

**Warren County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-91-0395**  
**Parcel No. 63-280-00-0050**

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On September 11, 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. Attorney Kevin Cunningham of Howe, Cunningham, Lowe & Kelso, P.L.C. in Urbandale, Iowa represented PVR Investments, LLC. Warren County Attorney John Criswell is legal counsel for the Board of Review. County Assessor Brian Arnold represented it at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

PVR Investments, LLC appeals from the Warren County Board of Review decision reassessing its property located at 1424 Sunset Drive, Norwalk, Iowa. According to the property record card, the property consists of a one-story, commercial building with 1440 square-feet of finished area on the main level, and a full finished basement. The building was built in 1980. It is listed as average construction quality (Grade 4+00) and is in normal condition, however, notes on the record card indicate the office area has a low quality finish and the basement is below average quality. The property, a converted gas station, is used as a realtor's office and is situated on a 0.32-acre site.

The real estate was classified as commercial on the initial assessment of January 1, 2013, and valued at \$210,600, representing \$62,100 in land value and \$148,500 in improvement value.

PVR protested to the Board of Review on the grounds that the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a)(1). It requested an assessed value of \$120,000. The Board of Review denied the petition.

PVR appealed to this Board reasserting its claim and sought the same relief.

PVR purchased the subject property in December 2012 for \$120,000. The property had been marketed for two years before the sale, which followed a bank foreclosure, and sheriff's sale in 2010.

Debbie Marmon, property co-owner and broker/realtor, testified on behalf of PVR. She testified the main floor is used for offices and the basement for storage only. She reported the roof is not a rubber membrane as listed on the property record card, but steel. According to Marmon, the roof is in very poor condition and the property has two, not three toilet rooms. Marmon identified three properties near the subject property along Sunset Drive to support PVR's claim of inequitable assessment. (Exhibits 2-4). Only one of the properties sold recently.

Address	Lot Size	Year Built	GBA Main	Date of Sale	Sale Price	SP/SF	Assessed	AV/SF
Subject	0.32	1980	1440	12-Dec	\$ 120,000	\$ 83.33	\$ 210,600	\$ 146.25
1326 Sunset	0.61	1950	1656	14-Apr	\$ 145,164	\$ 87.66	\$ 100,900	\$ 60.93
1039 Sunset	0.25	1962	2350				\$ 107,100	\$ 45.57
1037 Sunset	0.25	1963	2350				\$ 104,500	\$ 44.47

Marmon calculated the assessed values per-square-foot for the main floor and for the gross building area of the subject and the compared properties. (Exhibit 5). It is not sufficient to merely compare the assessed values of identified properties to prove inequity. Marmon also adjusted the sale price of 1326 Sunset and the assessed value of the other two Sunset properties to support her claim of inequitable assessment. (Exhibit 6). Adjustments should be made to comparable sales in appraisals and comprehensive market analyses, not to assessed values. Marmon concluded an adjusted value range of \$109,100 to \$121,024 using this atypical method. Additionally, the sale of 1326 Sunset occurred over a year after the assessment date. (Exhibit 2). Since none of the properties sold during

the relevant time and the record lacks the necessary data to complete an assessment/sales ratio analysis; we give no weight to Marmon's analysis.

PVR also provided portions of an inspection report including photographs identifying property deficiencies and repairs needed to the brick veneer, roof, and retaining wall. (Exhibit 8). Many of these are listed as aesthetic issues, general maintenance, or minor servicing typical for the age of the building by the inspector.

County Assessor Brian Arnold testified on behalf of the Board of Review. Arnold differentiated the properties selected by PVR for comparison because they were built as residential properties, which have different setback requirements, less front yard for parking, and are constructed with partitioned weight-bearing walls in the interior rather than weight-bearing perimeter walls. He testified the property at 1326 Sunset (Exhibit E) was built as a residential property then converted to a dentist office, which is now being renovated into a veterinarian's office. It sold April 2014 for \$145,000. It had major damage, the cabinets had been removed, and mold issues at the time of sale.

Arnold also distinguished the two commercial properties PVR identified at 1037 and 1039 Sunset because, unlike the subject, they are part of a neighborhood strip mall, are not free-standing, and therefore, are priced differently. (Exhibits I & J). Also, the land has an allocated value based on a large site.

To support the PVR assessment, Arnold identified a property at 1128 Sunset originally built as a commercial property. (Exhibit B). It is newer than the subject and has a larger lot. The property sold in March 2014 for \$160,000. He also discussed the property at 1305 Sunset, which was originally built as a commercial photography studio. (Exhibit 9). It was converted to residential use when the photographer retired. A property located at 1323/1325 Sunset was built for commercial use in 1940. (Exhibit H). It was used as office space and currently is used as a restaurant. The assessment has a 20% economic obsolescence adjustment because 700 square feet of the building (roughly 40%) is

vacant and has very limited parking. The building is in below normal condition and located on 0.12 acres. The property sold in January 2012 for \$54,000.

Arnold believes properties located at 1128, 1104, and 1225 Sunset are most comparable to the subject. (Exhibits B, C, & D). They were constructed as commercial properties and are used for offices. Considering only the main level space the assessments range from \$117.57 to \$128.66 per-square-foot compared to the subject's assessment based on main level space of \$146.25 per-square-foot. While the subject property has a higher unit value based on main level space, considering the total gross building areas (GBA), the properties' assessments range between \$58.79 and \$128.66 per-square-foot, placing the subject's \$73.13 per-square-foot of GBA assessment well within the range. We find the properties Arnold identified are more comparable to the subject than those identified by PVR and support the assessment.

### *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)(a)(2). 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*, 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."

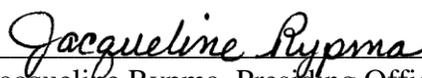
*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

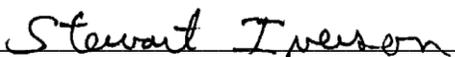
While PVR provided three properties it considered comparable to its property, only one of the properties sold recently and that sale was after the assessment date. Therefore, the record lacks the information necessary to complete an assessment/sales ratio analysis under the *Maxwell* test. Further,

PVR did not allege the Assessor applied an assessment method in a non-uniform manner under the *Eagle Foods* test. Nor are we convinced that the properties PVR identified are similarly situated or comparable to the subject. Thus, PVR did not show its property was inequitably assessed under either test.

THE APPEAL BOARD ORDERS the January 1, 2013, property assessment of PVR's property located at 1424 Sunset Drive, Norwalk, Iowa, of \$210,600, is affirmed.

Dated this 10th day of October, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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