

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dennis K. Krieger,
Appellant,

v.

Des Moines County Board of Review,
Appellee.

ORDER

Docket No. 14-29-0050
Parcel No. 10-35-429-010

On March 19, 2015, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Dennis Krieger was self-represented. Des Moines County Attorney Amy Beavers 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

Dennis Krieger, owner of property located at 700 Boardwalk Drive, West Burlington, Iowa, appeals from the Des Moines County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, single-family dwelling with 2712 square feet of living area; a 960 square-foot attached garage; a deck, open porch, a patio and slab foundation built in 2008. The dwelling has superior quality grade (2+10) and normal condition. Its site is 0.52-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$292,900, representing \$41,200 in land value and \$251,700 in improvement value. This was a change from the 2013 assessment making it a reassessment year with all grounds of protest available. Krieger protested to the Board of Review on the grounds that the assessment was not equitable

compared to like properties in the taxing jurisdiction and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a) and (b). The Board of Review denied the protest.

Krieger then filed his appeal with this Board and urged the same grounds. He claims \$260,000, representing \$35,000 in land value and \$225,000 in improvement value is the actual value and fair assessment of the subject property.

Krieger testified his assessment increased 17.5% since the last assessment in 2013. He reports that his assessment is the highest of any similar slab construction dwellings in the Park Place subdivision. According to Krieger, there are also five homes with basements in the subdivision that have lower assessments than his property.

Slab Foundation

Exhibit	Address	TSFLA	Site-Acres	Grade	2013 AV	2014 AV	Increase
1	Subject	2712	0.520	2+10	\$ 249,200	\$ 292,900	17.5%
2	719 Park	2168	0.465	3+05	\$ 181,500	\$ 196,200	8.1%
3	620 Park	1985	0.570	3+10	\$ 196,600	\$ 213,900	8.8%
4	710 Park	2143	0.572	3+10	\$ 208,500	\$ 225,800	8.3%
5	601 Park	2487	0.499	3+10	\$ 212,500	\$ 248,300	16.8%
6	720 Park	2143	0.540	3+10	\$ 178,600	\$ 195,500	9.5%
7	602 Van Weiss	2129	0.417	3+10	\$ 201,400	\$ 214,100	6.3%
8	704 Van Weiss	2153	0.424	3+10	\$ 186,900	\$ 210,900	12.8%

Basement

9	715 Park	2010	0.396	UK	\$ 251,800	\$ 256,400	1.8%
10	703 Boardwalk	2187	0.501	UK	\$ 254,100	\$ 273,400	7.6%
11	610 Park	2256	0.484	UK	\$ 255,300	\$ 273,000	6.9%
12	600 Park	1844	0.386	UK	\$ 214,300	\$ 238,800	11.4%
13	705 Park	1500	0.379	UK	\$ 245,200	\$ 241,400	1.6%

We note that Krieger's property has significantly more square feet of living area than the other properties and has the highest construction quality grade. His property has a high quality construction (2+10) while most of the compared properties have good quality construction (3+10). Both of these differences would account for a higher assessed value than the compared properties.

Krieger merely compared the assessed values of what may be dissimilar properties, which is insufficient to show inequity. Likewise, while he identified two sales that occurred in 2008 and 2012, the first is dated and the other was not a normal, arm's length transaction. Ultimately, he did not provide the evidence necessary to develop an assessment/sales ratio for an equity analysis.

It appears all of the slab sites (Exhibits 1-8) were uniformly increased roughly 22% and it appears the characteristics of the dwellings, such as size and construction quality, contributed to the various increases in the dwelling portion of the assessments. The evidence fails to support his claim of inequitable assessment.

Exhibit	Address	Site	2013 Land	2014 Land	Increase
1	Subject	0.520	\$ 33,900	\$ 41,200	21.5%
2	719 Park	0.465	\$ 34,100	\$ 41,500	21.7%
3	620 Park	0.570	\$ 40,400	\$ 49,200	21.7%
4	710 Park	0.572	\$ 35,400	\$ 43,200	22.0%
5	601 Park	0.499	\$ 36,500	\$ 44,500	21.9%
6	720 Park	0.540	\$ 39,300	\$ 47,800	21.6%
7	602 Van Weiss	0.417	\$ 30,000	\$ 36,600	22.0%
8	704 Van Weiss	0.424	\$ 32,100	\$ 39,100	21.8%

Krieger did not provide any evidence of the subject property's market value, such as an appraisal or adjusted comparable sale properties to support his claim of over-assessment.

County Assessor Matt Warner testified on behalf of the Board of Review. Warner reported that two events contributed to the increase in Krieger's assessment. A countywide reassessment conducted in 2014 and a cost manual change. The increased reassessment reflected the fact that the West Burlington properties were more popular than other locations in the area and it had a stronger market. Warner reported that West Burlington sales ratio had been 10% to 15% too low in the past few years, consequently it was increased more than other areas of the county in the reassessment process. The county also changed from the 1998 *Iowa Real Property Appraisal Manual* to the 2008 version. Warner commented that Krieger's dwelling had high quality construction with desirability. Grade

three (3+00) homes, like those Krieger identified, tended to be spec homes, whereas grade two (2+00) homes, like Kreiger’s dwelling, tended to be better quality, custom built homes.

The Board of Review provided sales to support Krieger’s assessment. The 2012 and 2013 sales are listed below, excepting Exhibit H that Warner identified as having an abnormal sales condition.

Exhibit	Address	TSFLA	Sale Date	Sale Price	\$ PSF	Grade
A	Subject	2712	N/A	N/A	AV / \$108	2+10
B	2525 Diamond Ridge	2482	4/18/2013	\$ 349,000	\$ 141	2+10
D	1628 Cambridge	1764	1/23/2012	\$ 188,000	\$ 107	3+10
E	1515 Winchester	2085	2/24/2012	\$ 228,000	\$ 109	2-05
F	2207 S 4th	2216	12/27/2013	\$ 249,000	\$ 112	2+05
G	2211 Miller	2257	11/1/2012	\$ 215,000	\$ 95	2-10

All the properties listed above, except 2525 Diamond Ridge, have slab foundations similar to the Krieger property. The Diamond Ridge property has a basement with 1475 square feet of living-quarters finish and geo-thermal heating, which is reflected in its higher sale price per-square-foot. While these sales prices were not adjusted to reflect differences between them and Krieger’s property, his \$108 per-square-foot assessment does fall into the range, below the average, and roughly at the median of the more similar properties’ identified by the assessor on a sale price per-square-foot basis.

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 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. *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).

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."

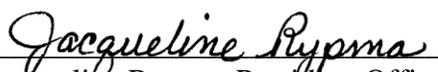
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law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

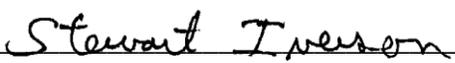
Krieger listed seven slab construction properties for equity comparison. Only one of the properties had recently sold and that sale was not considered an arm's length, normal transaction by the assessor. He did not provide any of the evidence needed to complete the equity analysis contemplated by *Maxwell*. In addition, while Krieger argued his assessment increased more than other properties in the area, all sites in the subdivision were uniformly increased. Merely comparing the assessment increases of dissimilar properties does not establish the assessor applied an assessing method in a non-uniform manner. Therefore, we find Krieger did not prove by a preponderance of the evidence that the property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

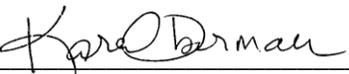
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Krieger did not provide evidence to show the fair market value of the property, such as an appraisal, comprehensive market analysis, or adjusted comparable sales data. Moreover, Krieger's assessment is supported by recent sales of similar properties provided by the assessor. Ultimately, Krieger's evidence did not show the property was inequitably assessed and did not establish the fair market value of the property as of January 1, 2014 to prove over-assessment.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the Des Moines County Board of Review is affirmed.

Dated this 24th day of April, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Dennis K. Krieger
700 Boardwalk Drive
West Burlington, IA 52655
APPELLANT

Amy Beavers
Des Moines County Attorney
201 Jefferson Street, Ste. 202
Burlington, IA 52601
ATTORNEY FOR APPELLEE