

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard & Linda Shoemaker,
Appellants,

v.

Des Moines County Board of Review,
Appellee.

ORDER

Docket No. 14-29-0352
Parcel No. 11-33-307-002

On April 21, 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 sections 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Richard and Linda Shoemaker were represented by attorney Eric L. Benne of Swanson, Gordon, Benne, Clark & Kozlowski, LLLP, Burlington, Iowa. 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

Richard and Linda Shoemaker are the owners of residential property located at 918 N 3rd Street, Burlington, Iowa. The subject property is a two-story, single-family dwelling built in 1908 with 3354 square feet of living area; a 924-square-foot attached garage; decks, open porch, and a patio. The dwelling has superior quality grade (2+00) and excellent condition. Its site is 0.152-acres.

The real estate was assessed for \$331,400 as of January 1, 2014, representing \$60,500 in land value and \$270,900 in improvement value. This was a change in value from the previous assessment making all grounds under Iowa Code section 441.37(1)(a)(a) available for protest. The Shoemakers protested to the Board of Review on the grounds that the assessment was not equitable compared to like properties in the taxing under section 441.37(1)(a)(1)(a). The Board of Review denied the protest.

The Shoemakers then filed their appeal with this Board. They claim \$267,928 is the property's correct value.

Richard Shoemaker testified he paid \$385,000 cash for the subject property in 2007. At the time, the property appraised for \$415,000. He reported the property is listed for sale and has been on the market for over three years. It was initially listed for \$449,000 in May 2012, reduced to \$439,000 in December 2014 and now listed for \$415,000. (Exhibit F).

The Shoemakers submitted a spreadsheet and additional information on seven properties, all located on N 3rd and N 4th Streets, Burlington, they identified as equity comparables. The properties are also all located along the river bluff and have river views.

Address	Grade	Condition	2014 AV	Dwlg 2014 AV	TSFLA	AV Dwlg PSF	Site- EFF	Land 2014 AV	Land Area SF	AV Land PSF
Subject	2+00	Excellent	\$ 331,400	\$ 270,900	3354	\$ 80.77	50.44	\$60,500	6604	\$9.16
916 N 3rd	3+10	Excellent	\$ 260,700	\$ 201,300	3972	\$ 50.68	49.54	\$59,400	8012	\$7.41
914 N 3rd	3+10	Excellent	\$ 238,600	\$ 169,600	4299	\$ 39.45	87.50	\$69,000	11,125	\$6.20
922 N 3rd	2+00	Excellent	\$ 380,900	\$ 252,600	3018	\$ 83.70	133.62	\$128,300	17,766	\$7.22
1013 N 3rd	2-10	VG	\$ 309,900	\$ 194,900	3466	\$ 56.23	112.80	\$115,000	13,800	\$8.33
1018 N 4th	3+10	BLN	\$ 152,200	\$ 80,300	2658	\$ 30.21	59.90	\$71,900	13,800	\$5.21
1024 N 4th	3+10	NML	\$ 205,600	\$ 125,600	3304	\$ 38.01	66.70	\$80,000	12,950	\$6.18
1032 N 4th	2+10	Excellent	\$ 356,100	\$ 263,700	3662	\$ 72.01	77.00	\$92,400	13,720	\$6.73

The Shoemakers' spreadsheet also included room, bathroom, and garage count, in addition to much of the information we have noted above.

The Shoemakers believe that a review of these properties shows theirs is assessed much higher. Their main point of contention is lot size and living area square footage as compared to the assessed value. The Shoemakers calculated and compared the land assessments based on a value per-square-foot. However, County Assessor Matt Warner, who testified on behalf of the Board of Review, noted that these assessments are valued on an effective-front-feet basis, not per-square-foot value, and that all properties were similarly assessed at \$1200 per effective-front-foot. He further noted that a smaller lot

will appear to then have a higher per-square-foot value than large sites. His testimony is confirmed by the information found on the property record cards for these properties.

Additionally, despite the Shoemakers' claim that these properties are comparable, they appear to have some dissimilarities. For example, five of the properties had a lower construction quality grade than the subject property and several were inferior in condition. The quality grade of the property ultimately impacts its value. For example, a multiplier of 1.420 was applied to the Shoemakers' 2+00 grade dwelling; whereas, a grade multiplier of 1.280 was applied to a 3+10 grade dwelling.

The property located at 922 N 3rd appears to be similar in construction grade and condition to the Shoemakers' dwelling and its improvements are assessed slightly higher than theirs on a per-square-foot basis. The property located at 1032 N 4th appears to be similar in condition, has slightly higher construction grade, but lacks a garage like the Shoemakers'. This difference could account for the subject property's higher dwelling value as compared to the 1032 N 4th property's dwelling value on a per-square-foot basis.

Moreover, none of the compared properties were recent sales, and the Shoemakers acknowledge this; thus, there is not sufficient information to develop an assessment/sales ratio for an equity analysis.

The Board of Review provided four sales to support the Shoemakers' assessment.

Address	Year Built	TSFLA	Sale Date	Sale Price	\$ PSF	Grade
Subject	1908	3354	N/A	N/A	N/A	2+00
1600 River St	1961	1660	07/03/2013	\$ 325,000	\$ 196	2-05
1920 River	1912	1846	08/26/2012	\$ 315,000	\$ 171	2-10
2200 S Main	1969	2464	12/23/2013	\$ 280,000	\$ 114	3+05
300 Franklin	1929	2235	06/03/2014	\$ 254,800	\$ 114	2-10

We note the sale properties vary substantially in age, construction grade and square-feet of living area. While these sales prices were adjusted by cost, rather than market data, to reflect the

differences between them and the Shoemakers' property, his \$99 per-square-foot assessment does falls below the lower end of the range, of the properties' identified by the assessor on a sale price per-square-foot basis. Assessor Warner testified he found the sale located at 300 Franklin to be the most similar to the Shoemakers. When questioned regarding the discrepancy in assessments between 300 Franklin and the subject, Warner explained that this is a very small sample of sales, and while 300 Franklin may be the best of the comparables presented, it is not identical to the Shoemakers' property. He testified it is his belief that the Shoemakers' property is better in both quality and condition than the property at 300 Franklin, which would account for some of the difference in value.

Assessor Warner also reported that two events contributed to the increase in the Shoemakers' assessment: A countywide reassessment conducted in 2014 and a cost manual change. The increased reassessment partly reflected the recent river property sales. The county also changed from the 1998 IOWA REAL PROPERTY APPRAISAL MANUAL to the 2008 version.

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.

The Shoemakers provided a list of seven properties they deemed comparable for their inequity claim; however, none of the properties had recently sold. Nor did they provide any other evidence necessary to complete the equity analysis contemplated in the *Maxwell* case. In addition, while the Shoemakers argued his land was assessed higher than other neighboring properties, all were uniformly

assessed at the same unit price on the basis of effective-front-foot. Therefore, we find the Shoemakers did not prove, by a preponderance of the evidence, that their property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

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

Dated this 11th day of May, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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