

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-074-00653R

Parcel No. 210506083431

Michael & Linda DeFrancisco

Appellants,

v.

Palo Alto County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 24, 2015. Michael and Linda De Francisco were self-represented and appeared in person at the hearing. County Attorney Peter Hart represented the Palo Alto County Board of Review and participated by phone.

The DeFranciscos are the owners of a residential property located at 33577 D Street, Ruthven. The subject property is a one-story home with no basement with 708 square feet of living area and a 224 square-foot enclosed porch. It was built in 1982. The site is 0.069 acres. It is located in the Electric Park Subdivision and has private access to Lost Island Lake, but no lake-frontage or lake view.

The property's January 1, 2015, assessment was \$66,360, allocated as \$10,440 in land value and \$55,920 to dwelling value. The DeFranciscos protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition, and the DeFranciscos appealed to this Board. They assert the subject property's fair market value is \$57,040.

Findings of Fact

The DeFranciscos purchased the property in July 2009 for \$40,000. They testified that after their purchase they have improved it with a new roof, new siding, some new windows, and a new front door. They explained that they purchased the materials and provided the labor. They estimated their materials cost at roughly \$6000. Moreover, they note that all of these improvements occurred prior to 2012.

They assert their current assessment is too high compared to adjacent properties and because no improvements were made since 2012. In their opinion, the 2013 assessment of \$57,040, which was roughly a \$6500 increase from 2012, reflected those improvements. The assessment remained the same in 2014 but increased in 2015. According to the DeFranciscos, there is no support for the increase because the property has had no additional improvements. They also explained the subject property is only a summer home and cannot be occupied in the winter.

The DeFranciscos submitted five properties for equity comparison. The record also includes a property record card for each of these properties. (Ex. C). A summary of these properties is in the chart below.

	2015 Assessment	Site Size	Year Built	Improvement Size	Condition	Assessed Value/SF
Subject	\$66,360	3000	1982	708	Above Normal	\$94
33517 C St	\$44,990	6000	1900	720	Normal	\$62
33533 C St	\$56,620	3550	1965	720	Normal	\$79
33567 D St	\$41,330	2000	1900	576	Very Good	\$72
33572 D St	\$21,230	2000	1900	908	Below Normal	\$23
33570 D St	\$20,620	2000	1900	576	Below Normal	\$36

The DeFranciscos property is significantly newer than the properties they selected as comparables. Linda DeFrancisco, who is very familiar with the area, asserts the properties listed as being built in 1900 were actually moved to the sites they are currently situated on in the mid-1940's, and should be identified as having a year built in the mid-1940's. It appears she is drawing a distinction between a property's actual age and its effective age, which could be lower due to renovations that may have occurred when the improvements were moved to its current locations. Another way to

recognize the actual versus effective age is in the condition rating. The subject property, which was updated between 2009 and 2012, has an above normal rating compared to the normal, very good, and below normal ratings of the DeFranciscos' comparables. These lower quality condition ratings would affect the assessed value due to increased depreciation.

Only one of these properties is a recent sale. The property located at 33517 C Street sold in June 2013 for \$45,000 and again in June 2014 for \$71,000. This property was also submitted by the Board of Review as an equity comparable. The Board of Review notes the \$71,000 sale price included an adjacent 2000 square-foot vacant lot. (Ex. D). Including the vacant lot, the total 2015 assessment of this property is \$44,990. The assessment/sales ratio is 63.36 indicating the property is under-assessed. However, more than one property is required to support a claim of inequity and it is irregular to consider a multi-parcel sale for equity analysis.

Palo Alto County Assessor Lois Naig testified for the Board of Review. She explained that the DeFranciscos' 2015 assessment increased due to a reappraisal. The reappraisal resulted in changes in the condition rating from normal to above normal; changes in the MANUAL level from 95% to 100%; and changes in the map level from 95% to 100%. (Ex. C).

The Board of Review also submitted three properties it considered comparable to the subject for an equity analysis. (Ex. D). The following chart is a summary of these properties.

	2015 Assessment	Site Size	Year Built	Size	Condition	Assessed Value/SF
Subject	\$66,360	3000	1982	708	Above Normal	\$94
33517 C St	\$44,990	6000	1900	720	Normal	\$62
33502 Electric Park St	\$158,440	5000	1950	1944	Very Good	\$82
33564 D St	\$66,130	4000	1994	1216	Very Good	\$54

As previously noted, 33517 C Street appears to be under assessed. However, we do not find the remaining two comparables sufficiently similar for an equity comparison. Both were reported as being "year-round" properties compared to the

subject, which was identified as a seasonal property. Moreover, they are both larger than the subject.

The Board of Review also submitted a list of 2013/2014 sales on Lost Island Lake. (Ex. E). Only one sale occurred in 2014. As previously mentioned, this sale included two parcels. Thus, its assessment/sale ratio is distorted. Generally, however, this information suggests that these properties were often selling for more than their assessments between 2013 and 2014.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB 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). PAAB considers only those grounds presented to or considered by the Board of Review, but 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(1)(a-b). New or additional evidence may be introduced, and PAAB 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). 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*, 257 Iowa 575, 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 DeFranciscos offered five properties they considered comparable to theirs for an equity analysis and the Board of Review submitted two other properties. However, only one of these properties recently sold and its sales reflected the price of a two-lot purchase. Moreover, the plain language of section 441.37(1)(a)(1)(a) indicates that more than one property is required to support an equity claim. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996).

The DeFranciscos did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

For the foregoing reasons, the DeFranciscos failed to show their property is inequitably assessed as compared to like properties.

Order

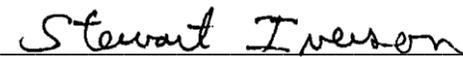
IT IS THEREFORE ORDERED that the Palo Alto County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 13th day of October, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Michael & Linda DeFrancisco

Palo Alto County Board of Review