

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

PAAB Docket No. 2015-080-01020R

Parcel No. TE011173

Helen Schardein and Dan R. Sickels,

Appellants,

v.

Ringgold County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 17, 2015. Helen Schardein and Dan Sickels were self-represented. County Attorney Clint Spurrier represented the Ringgold County Board of Review.

Schardein and Sickels are the owners of a residential property located at 3198 Overland Trail, Ellston, Iowa. The subject site is located on Sun Valley Lake. It has 139' front foot of lakefront and is improved by a shed, deck, boat dock, and lift. There is a camper on the property, which is personal property and not included in the assessment.

The property's January 1, 2015, assessment was \$52,610, allocated as \$51,470 in land value, \$1,140 to improvement value. Schardein and Sickels' protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property; and that the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(a) and (b).

The Board of Review denied the petition.

They now assert the subject property's fair market value is \$37,002.

Findings of Fact

Schardein and Sickels purchased the subject property in May 2014 for \$86,000. Schardein testified that in her opinion, the improvements (shed, deck, boat dock, and lift) had a \$25,000 contributory value to the purchase price, with the remaining \$61,000 attributed to the site. Despite acknowledging a personal value of \$61,000 to the site, Schardein and Sickels assert the assessment increased too much from 2014 to 2015. Its 2014 site assessment was \$24,710, compared to the 2015 site assessment of \$51,470. County Assessor Neil Morgan testified for the Board of Review and explained that the assessment was increased due to a 50% functional obsolescence adjustment, originally applied in 2004, that was removed in 2015. In 2004 it was determined the adjustment was necessary, however, since that time improvements had been made to the site and shoreline which necessitated the removal of the adjustment.

Schardein and Sickels submitted six properties for equity comparison. The record also includes a property record card for each of these comparable properties. (Exs. P-Q). The following chart summarizes their comparables.

	Assessed Site Value	Depth	Street Front	Effective Front Foot	Effective Front Foot Value
Subject (Schardein/Sickels)	\$51,470	90	120	133	\$516
3186 Overland Trl (Gavin)	\$32,760	101	60	60	\$546
3188 Overland Trl (Lichtenberger)	\$34,050	121	67	65	\$582
3190 Overland Trl (Hanze)	\$33,930	144	62	61	\$618
3192 Overland Trl (VanHouton/Garton)	\$40,550	164	64	63	\$642
3194 Overland Trl (Miller)	\$36,400	165	64	63	\$642
580 Trails End (Shumaker)	\$27,410	105	182	131	\$558

Their property is a double-lot compared to the equity comparables, which are all single-lot sites. This would explain, in part, why their site has a higher assessment than the properties they considered for comparison. Moreover, their site has more than twice the effective front foot than five of the sites. We also note that their assessed value per front-foot sets the lower end of the range of their submitted comparables.

The property located at 580 Trails End abuts the subject site to the east. While it has 182 feet on the street and 131 feet of calculated effective front foot, it is located at

the end of a cove and has significantly less actual lake front access. (Exhibit N, p. 3). Morgan explained this property also had a 50% functional obsolescence adjustment applied to its assessment because it is situated in such a way, at the end of the cove, that the actual lake frontage is much less desirable than other sites. Morgan also stated that both this site and the subject site also have a 25% vacancy/topography factor applied.

Lastly, none of these properties sold recently nor was an opinion of market value established for each property to determine an assessment/sales ratio.

Schardein and Sickels did not provide any other evidence of the property's fair market value such as an appraisal, comparable sales, or a comprehensive market analysis.

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.

Schardein and Sickels offered six properties they considered comparable to theirs for an equity analysis. However, none recently sold or had another opinion of their market value; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, they did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, they failed to show their property is inequitably assessed as compared to like properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), 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). Schardein and Sickels provided no evidence to establish the subject property was over-assessed.

Order

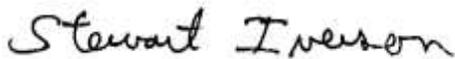
IT IS THEREFORE ORDERED that the Ringgold County Board of Review's action is affirmed.

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 7th day of October, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Helen Schardein/Dan Sickels

Clinton Spurrier