

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

PAAB Docket No. 2015-077-00716R

Parcel No. 291/00369-186-000

Derek Grittmann,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on December 4, 2015. Derek Grittmann was self-represented. Assistant County Attorney Christina Gonzalez is counsel for the Polk County Board of Review.

Grittmann and Dawn Scott are the owners of a residential property located at 9849 Clark Street, Clive. The subject property is a two-story home with 2004 square feet of living area built in 1975. It also has a wood deck, enclosed porch, patio, and an attached two-car garage. The site is 0.214 acres.

The property's January 1, 2015, assessment was \$201,700, allocated as \$35,000 in land value and \$166,700 to dwelling value. Grittmann protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property, that the property is assessed for more than authorized by law, and that there is an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a), (b), and (d). The error claim reasserted his claim that the property assessment is not equitable.

The Board of Review denied the petition. Grittmann appealed to this Board renewing only his claim of inequity. He asserts the correct fair market value is \$197,300.

Findings of Fact

Grittmann asserted the assessment of his property is inequitable compared to three neighboring properties. The following chart summarizes the properties he submitted to the Board of Review.

	2015 Assessment	Change from 2014 Assessment
Subject	\$201,700	Up 2.1%
9869 Clark St	\$201,300	Up < 1%
9846 Clark St	\$208,500	Up < 1%
9831 Clark St	\$211,200	Down < 1%

In Grittmann's opinion, his assessment is not equitable because his 2015 assessed value increased over 2% compared to other like properties, which increased or decreased by 1%. None of the properties sold and Grittmann did not submit an opinion of market value for the properties; therefore, an assessment/sale ratio analysis cannot be developed. He did not submit any other evidence.

The Board of Review relied on five properties in its decision to deny the protest. The following chart summarizes the properties the Assessor submitted to the Board of Review.

	2015 Assessment	Sale Price	Sale Date	Assessment/Sale Ratio
Subject	\$201,700	N/A	N/A	N/A
9792 Sunset Terr	\$202,300	\$221,000	Jul-14	0.92
9130 Clark St	\$207,800	\$196,500	Oct-14	1.06
1563 NW 99th Ct	\$204,700	\$205,000	Dec-14	1.00
9911 Colby Ave	\$219,600	\$215,100	Aug-13	1.02
9873 Colby Ave	\$202,400	\$197,000	Mar-14	1.03

Removing the 2013 sale from consideration, the properties submitted indicate an assessment/sales ratio between 0.92 to 1.06 with a median of 1.025, which generally indicates similar properties are assessed at 2.5% more than their market value.

The Board of Review Appraiser Analysis indicates the subject had a market adjustment applied to its assessment based on a prior protest in 2012. During the 2015

re-assessment, this market adjustment was reduced from 10% to 8%. This may explain, in part, why the subject's assessment increased slightly more compared to other like properties that did not have the adjustment applied to their assessments.

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.

Grittmann offered three properties he considered comparable to his for an equity analysis. The record indicates the properties are substantially like the subject property, and we find them comparable. However, there is no information in the record indicating any of these properties has recently sold; and he did not submit evidence of the properties’ market values to complete an assessment/sales ratio analysis. Lastly, Grittmann did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

For the foregoing reasons, the Board finds that Grittmann failed to show his property is inequitably assessed as compared to like properties.

Order

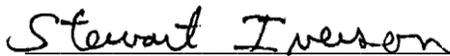
IT IS THEREFORE ORDERED that the Polk County Board of Review’s action is affirmed.

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.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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