

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

PAAB Docket Nos. 2015-028-00457R & 00458R
Parcel Nos. 250-14-01-048-00 & 250-14-01-049-00

Harold Mohr,
Appellant,

v.

Delaware County Board of Review,
Appellee.

Introduction

These appeals came on for hearing before the Property Assessment Appeal Board (PAAB) on March 1, 2016. Harold Mohr was self-represented. County John Bernau represented the Delaware County Board of Review.

Mohr is the owner of two adjoining residential parcels located at 20199 and 20193 246th Street, Manchester. The first parcel, 20199 246th Street, has a 768 square-foot garage built in 1989. The site is 0.237 acres. Mohr purchased this property in January 2015 for \$90,000.

The second parcel, 20193 246th Street, has a one-story home, built in 1980, with 1120 square feet of above-grade finish; a full, walkout basement with 850 square feet of living-quarter quality finish; a small patio; and a deck. There are also three detached garages, another patio, and a small metal shed. The site is 0.804 acres.

The following chart summarizes the properties January 1, 2015, assessments.

2015 Assessed Value			
	Land	Improvement	Total
20199 246th St	\$54,100	\$ 14,900	\$ 69,000
20193 246th St	\$68,200	\$130,000	\$198,200

Although he wrote in several areas of the petitions, Mohr's protests to the Board of Review essentially claimed the assessments were not equitable as compared with assessments of other like property; and that the properties were assessed for more than the

value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petitions. Mohr then appealed to PAAB.

Findings of Fact

Mohr's properties had frontage on Lake Delhi, a manmade lake. In 2010, flooding caused an earthen dam to breach, which resulted in the lake draining. Before the lake drained, Mohr's properties had a channel that bisected them with a bridge that provided access across a channel to the main lake. The channel is now mostly dry, much like the lake.

County Assessor Andrea Schmidt explained the assessment history of these properties and others located on Lake Delhi.

Schmidt first testified that after the dam breach in 2010, sales of these properties stopped because the lake ceased to exist and it was not clear whether the dam would be repaired or the lake refilled. In setting assessments, Schmidt considered this and adjusted the land values of the sites abutting the former lake area on a front-foot basis; the higher the front foot, the higher the adjustment.

Schmidt then explained that for the 2015 assessment, a sales ratio study was completed to determine if the assessments were near market value. The study's results indicated the assessment/sales ratio of waterfront/lake area properties had a median of 75.00, meaning assessments were at 75% of the properties' market value. After adjusting land and improvements for the 2015 assessment cycle, the median ratio was 94.21; indicating property assessments are very near market value. To achieve a better ratio, Schmidt reduced the obsolescence in relation to the front foot. This adjustment is reflected on the land value portions of the property record cards as the "Other" obsolescence factor. The topography adjustment reflects when a site would require significant improvement in the form of seawalls or dirt work to improve the site. The economic adjustment reflects unimproved sites.

Docket 2015-028-00457R: 20199 246th Street

Relevant evidence: Mohr's Exhibits 1-12 and the Board of Review's Exhibits A-Y.

As previously noted, this property is a 0.237-acre site improved with a two-car garage. Mohr purchased it in January 2015 for \$90,000. Despite the recent purchase price, he asserts the assessment is too high when compared to the assessments of other nearby properties. He

explained he was willing to pay \$90,000 for the site because he wanted a buffer between his property and a neighbor.

Mohr explained his concern is limited to the land value of the parcel. He compared his site to neighboring sites; asserting the site values of the nearby properties are less than or only slightly more than the assessment of his site despite many of them being larger. The following chart summarizes the properties Mohr submitted for comparison.

	Owner/Address	Site Size (SF)	2015 Assessed Site Value	Topo	Econ	Other
	Subject - 20199 246th St	10,320	\$54,100	0%	0%	20%
Exs. D & 4	Gosse - 246th St	20,020	\$65,300	25%	10%	20%
Ex. E	Wulfekuhle - 246th St	0	\$100	0%	0%	0%
Ex. F	Fink - 246th St	0	\$100	0%	0%	0%
Exs. G & 7	DeLong - 20129 247th St	68,178	\$58,400	30%	0%	20%

First, regarding the Wulfekuhle and Fink properties, Schmidt testified that the sites are adjacent to other lots owned by the same individuals. These other, adjacent lots hold the assessed value and priced on a front-foot because the lots Mohr listed extend into the lake basin and are underwater and unbuildable. For this reason, the lots Mohr identified are given minimal value consideration. Additionally, unlike the subject, neither of these lots is within the Lake District. For these reasons, we give these comparable properties no consideration.

The Gosse and DeLong properties closely neighbor or abut Mohr’s site; although both sites are larger, the site assessments are only slightly more than his property’s assessment. Mohr questions why these properties receive topography and economic adjustments to portions of their sites when he does not receive the same adjustments. As previously noted, the three factors for each site that could receive adjustment include topography, economic, and other. Schmidt testified that the Gosse site is unimproved and therefore has an economic adjustment applied to it to reflect vacancy. Both the Gosse and DeLong sites have a more sloped site and thus require additional site improvements. (Ex. L). Schmidt also explains that some sites near Mohr’s property have shallower and sandier channel areas, which restrict the ability to dock boats, and have different access to the main part of the lake that may also affect the adjustments those properties receive. (Ex. K).

Mohr was critical that properties on either side of his were receiving adjustments because of the limited channel depth and access yet his was not. Mohr stated that if these

properties have limited access because of the shallow nature of the channel, his property would also have limited access and then should receive the adjustment. We believe his observation is reasonable. Schmidt indicated she was willing to revisit this concern for future assessments.

The front foot pricing of sites in the immediate area of the subject property ranges from \$600 to \$1250 per-front-foot. (Ex. J).

None of the properties Mohr identified have recently sold nor did Mohr provide any market value opinion of them. This information is necessary to develop an assessment/sales ratio for an equity analysis.

Mohr further testified that his property is in a flood zone. (Ex. 2). For this reason, he does not believe he can build on the site. He did not submit any evidence that would indicate the site is unbuildable.

The Board of Review submitted an appraisal completed by Gary Caldwell of Caldwell Appraisal, Hiawatha. (Ex. Y). Caldwell developed the sales comparison approach and concluded an opinion of value of \$95,000, as of January 1, 2016. We note the effective date is a year after the assessment date at issue; however, all the sales occurred very near or prior to the January 1, 2015 assessment date. Caldwell submitted three properties for comparison. After adjusting them for differences, he arrived at a range of value from \$89,000 to \$97,000.

Docket 2015-028-00458R: 20193 246th Street

Relevant evidence: Mohr’s Exhibits 1-12 and the Board of Review’s Exhibits A-W.

This is a residentially improved property on 0.804 acres. As previously noted, Mohr explained his concern is limited to the land value of the parcel. He compared his site to neighboring sites; asserting the site values of the nearby properties are less than or only slightly more than the assessment of his site despite many of them being larger. The following chart summarizes the properties Mohr submitted for comparison to it.

	Owner/Address	Site Size (SF)	2015 Assessed Site Value	Topo	Econ	Other
	Subject - 20199 246th St	35,010	\$68,200	10%	0%	20%
Ex D & 9	ARK Properties - 20105 247th St	83,369	\$66,900	0%	0%	20%
Ex E & 4	Gosse - 246th St	20,020	\$65,300	25%	10%	20%
Ex F & 7	DeLong - 20129 247th St	68,178	\$58,400	30%	0%	20%

Mohr's concerns with this parcel were the same as with his adjoining parcel. Ultimately, none of the properties Mohr submitted as comparables have sold, nor has an opinion of market value been offered, which are required to develop an assessment/sales ratio to support an equity claim. Moreover, no adjusted sales, appraisals, or other methods of valuation were presented to support an opinion of the January 1, 2015 market value of the subject property.

The Board of Review submitted an appraisal completed by Gary Caldwell of Caldwell Appraisal, Hiawatha. (Ex. W). Caldwell developed the sales comparison approach and concluded an opinion of value of \$260,000. His report indicates an effective date of January 1, 2016, whereas this appeal is for the January 1, 2015 assessment. Caldwell submitted three properties for comparison. One sale occurred prior to the 2015 assessment date and two occurred in July and August 2015. Caldwell did not make any time adjustments and we believe the analysis is reasonable for a 2015 valuation, especially given the location of the subject and sales on Lake Delhi. After adjusting them for other differences, he arrived at a range of value from roughly \$233,000 to \$268,000.

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).

Mohr’s sole concern is the assessed value of the property’s site. To this point, the IOWA REAL PROPERTY APPRAISAL MANUAL states:

When appraising real estate, the assessor must consider two separate entities; land, which is the non-wasting portion of the real estate; and improvements, which are the wasting portion subject to various forms of depreciation. Land and improvements are frequently valued separately so that the trends and factors affecting can be studied. However, the final analysis for an improved property must be as a unit.

In examining the evidence presented in this case, our primary concern is with the property’s total assessment, encompassing the land and improvements.

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.

Mohr offered properties he considered comparable to both his parcels for an equity analysis. Two of the properties that were compared to his property located at 20199 246th Street are not located in the same area and are valued in conjunction with other sites that hold the predominant value. The remaining properties are similarly located and similarly assessed;

however some have either topographical features that require additional adjustments or are adjusted for being vacant parcels. In addition, there is no information in the record indicating any of these properties has recently sold; and Mohr did not submit the market value of the properties. Lastly, Mohr did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable 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). Mohr did not offer any evidence of the market value of either property, such as an appraisal, adjusted comparable properties, or a cost analysis.

The Board of Review offered an appraisal for each property, which is the only evidence in the record of the market values. We note the appraisals had an effective date of January 1, 2016, rather than the January 1, 2015 assessment date at issue. Despite this, the sales used in the appraisal are proximate to Mohr's properties, and we find even absent time adjustments, the evidence suggests the subject properties are not over assessed.

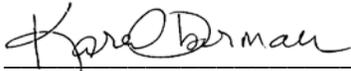
For the foregoing reasons, the Board finds that Mohr failed to show his properties are inequitably assessed or over assessed.

Order

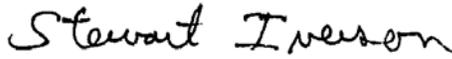
IT IS THEREFORE ORDERED that the Delaware County Board of Review's action is affirmed.

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 14th day of April, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Harold Mohr
John Bernau