

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

PAAB Docket No. 2015-077-00920R

Parcel No. 320/03026-999-505

Theresa M. Rohde,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Theresa Rohde was self-represented and requested a written consideration of her appeal. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Rohde is the owner of a residential two-story home located at 421 S 49th Street, West Des Moines. According to the property record card, it was built in 1994 and has 2236 square feet of above-grade finish; a full, unfinished basement; an open front porch; a deck; a patio; and a two-car attached garage. The site is 0.227 acres. An appraisal in the record indicates the subject has 997 square-feet of basement finish.

The property's January 1, 2015, assessment was \$248,400, allocated as \$39,300 in land value and \$209,100 in improvement value. Rohde's protest to the Board of Review claimed the property was not equitable as compared with the assessments of other like property and assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(a-b). The Board of Review reduced the assessment to \$238,000, allocated as \$39,300 in land value and \$198,700 in improvement value. Rhode then appealed to PAAB and asserts the correct assessed value should be \$225,000

Findings of Fact

Rohde submitted two properties to the Board of Review for an equity claim. The Board of Review is critical of these comparable properties, asserting one is inferior in quality and the other is in a “significantly different location.” (Ex. A). Moreover, we note both sold in 2013, not 2014 as required to complete an assessment/sales ratio analysis. For this reason, we give the comparable properties no consideration.

Rohde purchased the subject property in June 2013 for \$228,500. Rohde also submitted an appraisal report prepared by Josh Shillak with Forsythe Appraisals, LLC, Des Moines, Iowa. Shillak developed the sales comparison approach and cost approach in arriving at his opinion of a fair market value for the property of \$232,000, as of May 2013. Shillak also reports the subject has 997 square-feet of basement finish that is not included in the assessment of the property.

Because the appraisal is dated May 2013 and the comparable properties sold between September 2012 and April 2013, we do not find it reliable for a January 2015 market value opinion. For this reason, we do not rely on the appraisal.

On the appeal to PAAB, Rhode referenced twelve comparable properties that have sold in the last year between \$215,500 and \$237,900. However, she did not submit any other information regarding these sales and we are unable to determine if they are comparable to the subject.

Despite the Shillak appraisal having a May 2013 opinion of value, the Board of Review determined it was reliable and applied a time adjustment to the \$232,000 market value conclusion. Based on this, it determined a market value of \$238,000 for the 2015 assessment. (Ex. A).

The Board also relied on an Appraiser Analysis that includes four adjusted comparable properties, including the sale of the subject, summarized in the following table. The adjusted sales prices ranged from \$235,100 to \$259,800. Ultimately, we find the assessed value of \$238,000 is reasonable based on the sales and the adjusted sale prices. We also note the three properties that sold in 2014 indicate an assessment/sales ratio analysis of 0.98 to 1.00, which indicates assessments are at or near market value.

	Date of Sale	Sale Price	Site Size (Acres)	Gross Living Area (GLA)	SP/SF	Adjusted Sale Price	Adjusted SP/SF	2015 AV	Sale Ratio
Subject	Jun-13	\$228,500	0.227	2236	\$102.19	N/A	N/A	\$ 238,000	N/A
421 S 49th Ct	Sep-14	\$224,000	0.289	1957	\$114.46	\$259,800	\$132.75	\$ 225,000	1.00
4622 Waterford Dr	Dec-14	\$235,000	0.200	2033	\$115.59	\$242,300	\$119.18	\$ 234,100	1.00
4786 Ashley Park Dr	Dec-13	\$206,000	0.217	1861	\$110.69	\$237,100	\$127.40	\$ 239,800	N/A
421 S 49th St (subject)	Jun-13	\$228,500	0.227	2236	\$102.19	\$235,100	\$105.14	\$ 248,400	N/A
4905 Ashley Park Dr	Feb-14	\$213,500	0.241	1831	\$116.60	\$253,900	\$138.67	\$ 209,500	0.98

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 residential assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Rohde offered two properties for an equity analysis. However, both sold in 2013 and an opinion of their 2014 market value was not established. Therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, Rohde did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Accordingly, we find Rohde has not shown the subject property is inequitably assessed.

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). Rohde contends the property's correct value is \$225,000. We note this is below the June 2013 purchase price and the appraisal she submitted to the Board of Review. The appraisal valued the

subject property at \$232,000 as of May 2013. Although the appraisal is considered reliable for a 2013 value opinion, the comparable properties used in the appraisal sold in 2012 and 2013. For this reason, we do not find it reliable to conclude an opinion of the 2015 market value.

Relying on the appraisal, the Board of Review made a positive time adjustment and concluded the subject's correct value to be \$238,000 and lowered the original assessment. Given the circumstances, this method was reasonable. We find that Rohde has not offered any evidence of the subject's market value as of January 1, 2015, to establish that the \$238,000 valuation is excessive.

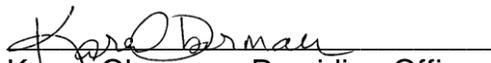
Based on the foregoing, we find that Rohde has not met her burden of demonstrating the property is inequitably assessed or over-assessed.

Order

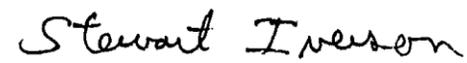
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

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.

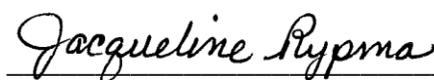
Dated this ____ day of _____, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Theresa Rohde by eFile

Christina Gonzalez by eFile