

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

PAAB Docket No. 2015-101-00117R

Parcel No. 132432901700000

Richard D. Davis,
Appellant,

v.

City of Cedar Rapids Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 22, 2016. Carol Martin represented Richard Davis. Assessor Tom Lee represented the City of Cedar Rapids Board of Review.

Davis is the owner of a residential, one-story home located at 612 Moose Drive NW, Cedar Rapids. It was built in 2009 and has 1311 square feet of above-grade finish; a full basement with minimal finish (stairs only); a deck; an open porch; and a two-car attached garage. The site is 0.147 acres

The property's January 1, 2015, assessment was \$162,300, allocated as \$23,800 in land value and \$138,500 in improvement value. Davis' protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was 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 petition. Davis then appealed to PAAB. He asserts the correct assessed value is \$158,000.

Findings of Fact

Davis submitted five properties he considered in support of his claim. The following chart is a summary of those properties. (Ex. F).

	Year Built	2015 Assessed Value	Gross Living Area (GLA)	Basement Finish	AV/SP
Subject	2009	\$162,300	1311	None	\$123.80
502 Moose Dr NW	2009	\$159,100	1317	None	\$120.80
1000 Koulsi NW	2000	\$167,700	1400	None	\$119.79
811 Moose Dr NW	2000	\$164,100	1400	None	\$117.21
805 Moose Dr NW	2000	\$174,300	1400	1025	\$124.50
715 Moose Dr NW	1999	\$164,500	1568	48	\$104.91

The properties at 811, 805, and 715 Moose Drive NW abut a busy street. The Assessor applied a negative 5% economic obsolescence adjustment to these properties because the street is used significantly by vehicles traveling to and from the nearby quarry, as well as normal street traffic. (Ex. B, p. 1-2). Davis testified that his property is located roughly a block away from these properties and does not understand why he does not receive the same adjustment. Assessor Tom Lee believes the 5% adjustment may no longer be necessary because of quarry traffic reduction and air quality improvements. He testified that he could review whether these properties still require the obsolescence adjustments for future assessment years.

The property at 1000 Koulsi NW has similar gross living area to the subject, however, it is nine years older and therefore has 15% physical depreciation applied to its assessment. In comparison, the subject was built in 2009 and the Assessor applied 6% physical depreciation. (Ex. G). The property at 502 Moose Drive NW is the most similar to the subject in location, size, and age; however, more than one comparable is required to support an equity claim. 502 Moose Drive NW does not have a fireplace like the subject, which would explain the variance in their assessments.

None of the properties has recently sold and Davis did not submit an estimate of the fair market value to develop an assessment/sales ratio analysis to support an equity claim.

Although Davis claimed his property was over-assessed, he did not submit any evidence of the fair market value of his property, such as an appraisal, comparable sales adjusted for differences, or a cost analysis.

The following chart summarizes five equity comparables the Board of Review submitted. (Ex. H).

	Year Built	2015 Assessed Value	Gross Living Area (GLA)	Basement Finish	AV/SP
Subject	2009	\$162,300	1311	None	\$123.80
520 Moose Dr NW	2009	\$159,900	1317	None	\$121.41
321 Moose Dr NW	2009	\$164,300	1320	None	\$124.47
327 Moose Dr NW	2009	\$164,300	1320	None	\$124.47
502 Moose Dr NW	2009	\$159,100	1317	None	\$120.80
333 Moose Dr NW	2009	\$163,500	1320	None	\$123.86

Like Davis' comparables, none of the Board of Review's equity comparables have sold and therefore an assessment/sales ratio analysis cannot be developed. However, all of these properties are located within a block of the subject property, have nearly identical gross living area, lack basement finish, and were all built the same year as the subject property. The assessed value per-square-foot ranges from \$120.80 to \$124.47, with an average of \$123.00 and a median of \$123.86. This information suggests the subject is assessed similarly to other like properties.

The Board also submitted five market comparable properties summarized in the following chart. (Ex. I).

	Year Built	Sale Price	Date of Sale	Gross Living Area (GLA)	Adjusted Sales Price	Adjusted SP/SF
Subject	2009	N/A	N/A	1311	N/A	N/A
407 Moose Dr NW	2009	\$184,500	Mar-15	1320	\$182,377	\$138.16
709 Moose Dr NW	2009	\$159,900	Oct-10	1311	\$159,055	\$121.32
4508 M Ave NW	2003	\$177,200	Aug-14	1400	\$170,094	\$121.50
303 Moose Dr NW	2009	\$198,000	May-14	1308	\$164,327	\$125.63
1605 Wolf Dr NW	2009	\$198,500	Apr-14	1292	\$165,916	\$128.42

All of the sales are one-story properties like the subject. The Board adjusted them for differences between them and the subject property based on the Iowa Department of Revenue's IOWA REAL PROPERTY APPRAISAL MANUAL. Like Davis, we agree the property at 709 Moose Drive NW is the most similar to the subject property. We note that it is receiving the aforementioned negative 5% economic obsolescence adjustment. Because of the negative adjustment and its lack of a fireplace, we would expect 709 Moose Drive NW's assessment to be less than the subject but the record does not establish the property's 2015 assessment for comparison. This is the oldest sale submitted by the Board of Review, but the Board of Review did not apply any time adjustments, which may explain why it sets the lower end of the range.

Focusing on the 2014-2015 sales, the adjusted range of value is between \$121.50 and \$138.16, with an average of \$128.43, and a median of \$127.03. The subject's assessed value per-square-foot of \$123.80 is less than the average and median adjusted values per-square-foot.

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.

Davis offered the assessments of five properties he considered comparable to his for an equity analysis. Three of the properties abut a busy street and receive a negative 5% economic obsolescence adjustment. Although Davis asserts his property should also receive this economic obsolescence adjustment, we note the Assessor applied the adjustment uniformly to the properties abutting the street and Davis'

property is located on the interior the development. None of the properties on the interior of the development receives the obsolescence adjustment. Moreover, none of the properties has sold recently and an opinion of market value was not established. This information is necessary complete an assessment/sales ratio analysis.

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). Davis did not submit any evidence of market value, such as a cost analysis or an appraisal, to demonstrate the property's assessment exceeds its market value.

For these reasons, we find the he has failed to show his property's assessment is inequitable or assessed for more than authorized by law.

Order

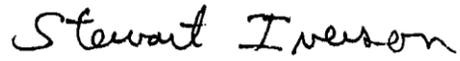
IT IS THEREFORE ORDERED that the City of Cedar Rapids Board of Review's action is affirmed.

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 22nd day of March, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Richard Davis

Tom Lee