

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

PAAB Docket No. 2015-077-00725R

Parcel No. 320/04613-001-000

Edward Ames,
Appellant,

vs.

Polk Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 18, 2016. Edward Ames was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk Board of Review.

Ames is the owner of a residential, one-story home located at 304 6th Street, West Des Moines. It was built in 1997 and has 1256 square feet of above-grade finish. It also has a slab foundation, two porches, and a two-car detached garage. The site is 0.333 acres. (Ex. A).

The property's January 1, 2015, assessment was \$136,200, allocated as \$30,600 in land value, \$105,600 in improvement value. On his protest to the Board of Review, Ames claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review denied the petition. Ames then appealed to PAAB.

Findings of Fact

Ames submitted two properties he believes support his claim. (Exs. B & G). Ultimately, we do not find it necessary to recite or analyze the properties because neither of them recently sold, and Ames did not submit an opinion of market value for the properties. This information is necessary to develop an assessment/sales ratio analysis. Moreover, Ames 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, which is also necessary to support an equity claim.

The Board of Review submitted four properties it relied on in its decision. The following is a summary of those properties. (Ex. E).

	Gross Living Area (GLA)	2015 Assessed Value	AV/SF
Subject	1256	\$136,200	\$108.44
308 8th St	910	\$138,500	\$152.20
104 10th St	1008	\$139,800	\$138.69
128 8th St	1270	\$143,200	\$112.76
111 3rd St	1118	\$139,400	\$124.69

Deputy of Litigation for the Polk County Assessor's Office, Amy Rasmussen testified that the property on 308 8th Street had recently sold, but that it was a contract sale and not considered a normal transaction. She also testified that the property at 104 10th Street sold in 2014 for \$142,000. Although more than one sale is required in an equity analysis, this would indicate a ratio of 0.99, which indicates the assessment is in line with market value.

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.

Ames offered two properties he considered comparable to his for his inequity claim. However, neither property recently sold nor did Ames submit an opinion of market value, which is required to develop an assessment/sales ratio. Moreover, Ames did not submit an opinion of market value for his property. Without this information, an assessment/sale ratio cannot be applied to determine if his property is equitably assessed.

For these reasons, we find the he has failed to show his property's assessment is inequitably assessed.

Order

IT IS THEREFORE ORDERED that the Polk 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.

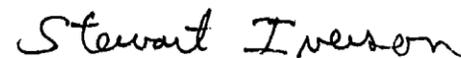
Dated this 3rd day of June, 2016.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

Edward Ames
304 6th Street
West Des Moines, IA 50265

Mark Taylor