

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

PAAB Docket No. 2015-077-00681R

Parcel No. 100/01339-000-000

Brian Connolly,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 15, 2015. Brian Connolly was self-represented. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Connolly is the owner of a residential property located at 2211 40th Place, Des Moines. The subject property is a one-and-a-half-story brick home with 1718 square feet of living area built in 1931. It has a full basement with 400 square feet of low-quality finish. It also has a 342 square-foot porch, and a detached two-car garage, which was built in 1965. The site is 0.161 acres.

The property's January 1, 2015, assessment was \$172,900, allocated as \$25,800 in land value and \$147,100 to dwelling value. Connolly protested to the Board of Review claiming the assessment is 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. Connolly then appealed to this Board. He asserts the correct assessment is \$162,000.

Findings of Fact

Connolly asserts the assessment of his property is inequitable compared to five properties. The following chart summarizes the properties he submitted.

	2015 Assessment	Gross Living Area (GLA)	Basement Finish	Neighborhood	AV/SF
Subject	\$172,900	1718	400	DM58/Z	\$100.64
2701 42nd St	\$161,200	1725	0	DM69/Z	\$93.45
4327 Sheridan Ave	\$155,800	1680	0	DM58/Z	\$92.74
1515 45th St	\$158,900	1673	0	DM59/Z	\$94.98
3931 Maquoketa Dr	\$134,400	1767	0	DM58/Z	\$76.06
3917 Maquoketa Dr	\$174,500	1848	300	DM58Z	\$94.43

All of the properties are “Beaverdale brick” style homes, with similar overall grades, living area, amenities, and age. We note that 3917 Maquoketa is the only comparable listed as having basement finish. 3917 and 3931 Maquoketa also appear to lack any sort of attached or detached garage space. 4327 Sheridan and 1515 45th also have attic finish, which has less contributory value than the upper living area present in the other properties. All else being equal, these factors would necessarily cause the subject’s assessment to be higher than the comparables. In addition, simply comparing assessments is not sufficient evidence to support an equity claim. None of the properties submitted have sold and Connolly did not submit an opinion of market value for the properties; therefore, an assessment/sale ratio analysis is unable to be developed.

Connolly also asserts that many of the properties he submitted have better curb appeal than his based on surrounding improved properties. He testified that the homes on either side of his, and across the street, have inferior exterior appeal and are much smaller properties. (Ex. 2). He compares this to 3917 Maquoketa and submits that the properties that surround it enhance the curb appeal and ultimately its market value; yet its assessment is only slightly higher than his is. (Ex. 3). He also compares the 2005 assessed values of the comparable properties to their 2015 assessed values and claims his assessment has had a much higher increase over this period. (Ex. 4).

Lastly, Connolly testified that his property has some deferred maintenance and submitted photographs to support this assertion. (Ex. 5). He stated that some finishing was removed due to basement flooding in the spring of 2015. He testified that he has not made a request for the Assessor's Office to inspect his property to determine that the listing information is accurate.

The following chart summarized the four properties the Board of Review relied on in its decision to deny the protest.

	2015 Assessment	Gross Living Area (GLA)	Basement Finish	Neighborhood	AV/SF
Subject	\$172,900	1718	400	DM58/Z	\$100.64
2219 39th St	\$176,100	1814	0	DM58/Z	\$97.08
2016 40th Pl	\$183,500	1795	0	DM58/Z	\$102.23
2204 40th St	\$184,000	1670	500	DM58/Z	\$110.18
2212 39th St	\$178,800	1615	484	DM58/Z	\$110.71

These properties are all similar Beaverdale brick homes with similar year built, amenities, size, and appeal. Unlike Connolly's comparable properties, these properties bracket the assessed value per-square-foot of the subject property. The Board of Review also asserts these properties are more similar to the subject in location, all within a few blocks of the subject compared to Connolly's comparables, which are farther from the subject property. (Exs. E and G). We ultimately conclude the Board of Review's comparables offer better comparability than the properties Connolly submitted and give them greater weight. The Board of Review's comparables indicate the subject's assessment is in-line with similarly situated properties.

Like Connolly's comparable properties, none of the Board of Review's comparables has sold; therefore, an assessment/sales ratio cannot be developed.

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.

First, Connolly did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Instead, Connolly offered five properties he considered comparable to his for an equity analysis. The Board of Review also submitted equity comparables that are more proximate to the subject property than those Connolly submitted. We found the Board of Review's properties to be more comparable and they also suggest the subject's assessment is in-line with similarly situated properties. However, there is no information in the record indicating any of these properties has recently sold; and there is no evidence of the properties' market values to complete an assessment/sales ratio analysis.

Connolly is critical of the assessment, asserting his property has increased at a higher rate over the last ten years than other properties he submitted. Comparing changes in assessments amongst properties is not sufficient to show inequity in the assessment.

Additionally, Connolly believes the surrounding properties, which he considers inferior to his, lower the curb appeal and market value of his property. First, he has not properly raised a market value claim under Iowa Code section 441.47(1)(a)(1)(b). Second, aside from asserting there is a negative influence on his property's value, Connolly has not demonstrated the actual amount of adjustment necessary to account for any negative influence that may exist.

Lastly, Connolly asserts his property has deferred maintenance that also affects its market value. We urge Connolly to contact the Assessor's Office and request an interior inspection to ensure that the listing information for the improvements is accurate and reflects the actual condition for the next assessment period.

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

Order

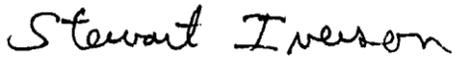
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

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.

Dated this 8th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Brian Connolly

Christina Gonzalez