

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

PAAB Docket No. 2015-077-00713R

Parcel No. 120/06560-000-000

Debra A. Cook,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 11, 2015. Debra A. Cook is self-represented and requested her appeal be considered without a hearing. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Cook is the owner of a one-story, brick residential dwelling located at 705 Marion Street, Des Moines, Iowa. The subject property has 1067 total square feet of living area, and a full basement with 500 square feet of average-plus finish constructed in 1966. The property is also improved by a 528 square-foot detached garage constructed in 1973. The dwelling is listed in above-normal condition and with average quality construction (Grade 4+5). The site is 0.152 acres. (Exhibit C).

The property's January 1, 2015, assessment was \$131,900, allocated as \$17,300 in land value and \$114,600 to improvement value. Cook's protest to the Board of Review claimed 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.

Cook then appealed to PAAB. She believes the subject property's fair assessment is \$105,000.

Findings of Fact

In her protest to the Board of Review, Cook identified four properties she considered comparable to her property with lower assessments than hers.

Address	Style	Grade	TSFLA	Base Fin	2015 AV
Subject	Brick	4+05	1067	500	\$ 131,900
701 Marion	Brick	4+05	1063	0	\$ 124,400
501 E Park	Frame	4+05	1016	0	\$ 112,200
3508 SW 8 th	Frame	4+00	1172	0	\$ 105,100
521 Maish	Brick	4+05	1028	700	\$ 123,500

She reports the property at 701 Marion has an identical floorplan as her property, yet has a lower assessment. Cook believes this property has been maintained better than the subject property, which she indicates has a major roof leak and original windows.

The Board of Review agrees 701 Marion is similar to Cook's dwelling. However, it points out that the subject property has 500 square feet of basement finish and a half bath that 701 Marion lacks. These differences likely account for Cook's higher assessed value. The Board of Review reported the property at 501 E Park is located on a heavily traveled street resulting in an economic obsolescence adjustment, which reduces its value. We note that there is no evidence of recent sales of these properties and we are unable to develop an assessment/sales ratio for an equity analysis.

The Board of Review also submitted a list of comparable properties for consideration.

Address	Style	Grade	TSFLA	Base Fin	2015 AV
Subject	Brick	4+05	1067	500	\$ 131,900
1011 Herold	Frame	4+05	1002	0	\$ 133,800
701 Marion	Brick	4+05	1063	0	\$ 124,400
1200 Frazier	Frame	4+05	1078	500	\$ 133,800
101 E Maxwellton	Frame	4+05	1064	0	\$ 130,600
6 E Maxwellton	Brick	4+05	1072	0	\$ 128,200

Brick dwellings typically have higher construction costs than frame dwellings. The brick dwellings at 701 Marion and 6 E Maxwellton have assessments of \$117.03 per-square-

foot and \$119.60 per-square-foot respectively. While the subject property is assessed higher at \$123.62 per-square-foot, it has 500 square feet of basement finish and an extra half bath that the comparable properties lack. Both of these differences likely result in the subject's higher assessed value. There is no evidence of recent sales of these properties and we are unable to develop an assessment/sales ratio for an equity analysis.

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). In this case, Duster did not shift the burden, and therefore, must prove the assessment is inequitable based upon 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.

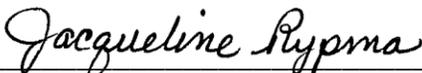
Cook offered four properties she considered comparable for an equity analysis that appear similar to the subject property. The Board of Review also offered five comparable properties. Cook’s property has basement finish and a half-bath the other brick dwellings do not have, which contributes to its higher assessment. No evidence was submitted to indicate that any of the comparable properties recently sold. Without evidence to show the actual values of the subject and comparable properties, we were unable to develop an assessment/sales ratio for Cook’s property as required by *Maxwell* to complete the equity analysis. Cook did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, Cook failed to show her property is inequitably 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.

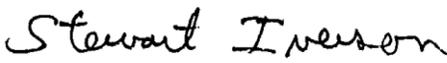
Dated this 6th day of January, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:
Debra A. Cook
Christina Gonzalez