

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

PAAB Docket No. 2015-077-00708R

Parcel No. 320/04928-163-001

David F. Davis,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 6, 2016. David F. Davis is self-represented. Assistant County Attorney David Hibbard represented the Polk County Board of Review.

Davis is the owner of a two-story, residential dwelling located at 4108 Colt Drive, West Des Moines, Iowa. The subject property has 2316 total square feet of living area, a full, unfinished basement, and a 484 square-foot attached garage constructed in 1970. The property is improved by stone veneer, an open porch, and patio. The dwelling is listed in normal condition and with good quality construction (Grade 3-05). The site is 0.31 acres. (Ex. A).

The property's January 1, 2015, assessment was \$209,800, allocated as \$42,100 in land value and \$167,700 to improvement value. Davis' protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property and the property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a) and (b).

The Board of Review denied the petition.

Davis then appealed to PAAB. He believes the subject property's correct assessment is \$201,000.

Findings of Fact

Davis identified five, two-story properties within a block of his dwelling that he considered comparable to his property, which had lower assessments than his property. (Exs. 1, C, D & E).

Address	Site SF	TSFLA	Open Porch SF	Patio	2015 AV
Subject	13,500	2316	320	375	\$209,800
917 41st	12,831	2012	72	None	\$190,600
925 41st	12,150	2388	None	192	\$200,600
4010 Ashworth	15,419	2090	170	None	\$197,600
4210 Ashworth	14,000	2148	36	None	\$187,400
4300 Ashworth	N/A	1908	N/A	N/A	\$190,400

The properties have similar average quality grades, age, and condition. The Board of Review Appraiser Analysis attributes Davis' higher assessment to the stone veneer and larger open porch. We add that the subject has more total living area than 4 of the 5 comparables and has more main living area than any of the comparable properties. Main living area is valued at a higher per-foot rate than upper living area. (Exs. B, D). This may also contribute to the subject's higher assessment.

The Board of Review relied on four 2014 sale comparables in support of its decision. The sales were adjusted based on the differences between the compared properties and the subject property, as shown below.

Address	Grade	TSFLA	2015 AV	Sale Price	Sales Ratio	Adj Sale Price
Subject	3-05	2316	\$209,800	N/A	N/A	N/A
801 46th	3-05	2406	\$224,700	\$220,000	102.14%	\$195,600
4401 Dakota	3-05	2303	\$214,200	\$235,000	91.11%	\$223,900
4104 Aspen	3-05	1876	\$190,000	\$182,500	104.11%	\$218,200
4101 Dakota	3-05	1908	\$202,400	\$205,000	98.73%	\$218,500

Davis testified that the properties he selected were closer to his property and therefore more representative of area values. (Ex. E). Amy Rasmussen, Director of Litigation for the Assessor's office, testified that the comparable properties identified by the Board of Review were also within the same neighborhood. (Ex. G). She reported

the indicated value of Davis' property based on the Board of Review adjusted sales was \$212,400; \$2600 more than his assessment. We note that the current assessment is also \$7200 less than Davis' \$217,000 purchase price in 2004.

The sale prices range from \$91.44 to \$107.44 per-square-foot, and adjusted prices range from \$81.30 to \$116.31 per-square-foot. The range of adjusted sale prices bracket the subject property's assessed value of \$90.58 per-square-foot. The median assessment/sales ratio of 100% indicates the selected properties are assessed at their market values.

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, Davis 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.

Davis did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. We find his evidence also falls to show inequity under the *Maxwell* test. Simply comparing assessments is not sufficient to show inequity under *Maxwell*. Further, none of the comparables appear to have recently sold and Davis’ property last sold in 2004. Recent sales of the subject and comparable properties are necessary in order to complete the *Maxwell* equity analysis. Therefore, we find Davis has not shown his property is inequitably assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code under 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 offer any evidence of the subject's market value, such as an appraisal or sales for either the subject or comparable properties. The market value evidence presented by the Board of Review indicates the subject is assessed at or below its fair market value. Thus, we find there is insufficient evidence to show the subject is assessed for more than authorized by law.

Order

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

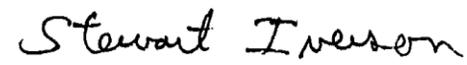
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

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