

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

PAAB Docket No. 2015-091-01167R

Parcel No. 63-340-00-0130

Dennis Desenberg,

Appellant,

v.

Warren County Board of Review,

Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 7, 2015. Dennis Desenberg is self-represented and requested his appeal be considered without a hearing. County Attorney John Criswell is legal counsel for the Warren County Board of Review.

Desenberg is the owner of a two-story, residential dwelling located at 1416 Avery Court, Norwalk, Iowa. The subject property has 2078 total square feet of living area, a full, walkout basement with 800 square feet of standard finish, a 484 square-foot attached garage with 112 living-quarters over, a deck, patio, and an open porch. It was constructed in 1989. The dwelling is listed in normal condition and with good quality construction (Grade 3-10). The site is 0.45-acres. (Exhibit 1).

The property's January 1, 2015, assessment was \$217,500, allocated as \$45,000 in land value and \$172,500 to improvement value. Desenberg'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.

Desenberg then appealed to PAAB. He believes the subject property's fair assessment is \$200,000.

Findings of Fact

In a letter accompanying his Board of Review protest, Desenberg explained that his property is located on a cul-de-sac of seven homes that are 25-26 years old. Three of the properties had decreases of \$1400, \$3000, and \$4300 (0.7%, 1.9% & 2.2%) in their 2015 assessments, while his increased \$26,200 (13.7%). He identified four two-story dwellings within close proximity to his property that sold between 2012 and 2014. All the properties are the same construction quality as the subject, except the Avery Court property, which is inferior. The site values range from \$35,000 to \$40,000, as compared to the subject's \$45,000 land value.

Desenberg explained the first property located at 1409 Avery Court is across the street from the subject. He reports it had a 0.7% decrease in its 2015 assessment. It is 428 square feet smaller than his home; however, it has a three stall garage. He does not understand why his assessment is \$28,300 more than this property. (Exhibit 4).

Desenberg explained the second property located at 1421 Justin Court is five years newer than his dwelling and is 107 square feet larger. Its backyard and the subject's intersect. He reports this property is also on an adjacent cul-de-sac. Its \$212,600 assessment is less than the subject property's and it was only increased by 4.4%. (Exhibit 5).

According to Desenberg, the third property located at 1330 Casady Drive is thirteen years newer than his dwelling with almost identical living area. He reports it is assessed at \$199,700, which is less than the subject property and it was increased by 6.45%. In his opinion, this property value supports a \$200,000 assessment for the subject property. (Exhibit 6). The Board of Review submitted a listing sheet indicating this property was sold in November 2014 for \$207,000. (Exhibit A).

The final property Desenberg described is located at 1627 Parkhill. He reports it is five years newer than his dwelling, has less living area, and its assessment increased by 7.0%. The following chart summarizes the sales information concerning these properties. (Exhibit 7). Desenberg also submitted Beacon reports for 1410 Avery and 1415 Avery Court, neither of these properties were recent sales and they were not included in his analysis. (Exhibits 2 & 3).

Comp	Address	SF Living Area	Base Fin	Walkout	Date of Sale	Sale Price	AV	Ratio
	Subject	2078	800	Yes			\$217,500	
1	1409 Avery Ct	1650	0	No	04-12	\$ 185,500	\$ 189,200	
2	1421 Justin Ct	2185	0	No	08-13	\$ 183,600	\$ 212,600	1.16
3	1330 Casady	1892	0	No	11-14	\$ 207,000	\$ 199,700	0.96
4	1627 Parkhill	1671	0	No	11-14	\$ 187,900	\$ 185,000	0.98

Notably, none of Desenberg's comparable properties have basement finish or a walkout basement like the subject. These differences alone could account for the disparity in assessments. We also note that the subject's property record card indicates adjustments for functional and economic obsolescence were removed in the 2015 assessment revaluation. The removal of these adjustments may have caused a larger than average increase in the subject's assessment when compared to other properties' assessments.

The Board of Review also submitted a list of comparable properties for consideration. The construction quality was the same or inferior to the subject property and the dwellings were constructed in 1991 and 1994. The majority of the Board of Review properties have basement finish similar to the subject property and one has a walkout basement. Two of Desenberg's sales occurred in 2014, whereas all of the Board of Review sales occurred in 2014. These properties are summarized in the chart below.

Comp	Address	SF Living Area	Base Fin	Walkout	Date of Sale	Sale Price	AV	Ratio
	Subject	2078	800	Yes			\$ 217,500	
1	1627 Parkhill	1671	0	No	11-14	\$ 187,900	\$ 185,000	0.98
2	1701 Parkhill	1769	600	No	06-14	\$ 227,000	\$ 198,800	0.88
3	1327 E 17th	1870	500	Yes	06-14	\$ 220,000	\$ 210,900	0.96
4	1414 E 20th	1274	450	No	10-14	\$ 173,500	\$ 163,100	0.94

Comparing the properties' assessments and sale prices produces an assessment/sales ratio. When property values and assessments are closely aligned, a

ratio approaching 100% is achieved. The ratios for the Board of Review sales and Desenberg's 2014 sales indicate the assessments are fairly aligned with the market values of the sale properties. Since no evidence of the fair market value of Desenberg's property, such as an appraisal, comparable sales, or comprehensive market analysis was provided, we were unable to develop an assessment/sales ratio for his property for an equity analysis.

While Desenberg's assessment is higher than any of the Board of Review comparable properties, his dwelling has more square feet of living area and more basement finish than the compared properties. Although with less above grade and basement finish than the subject, 1327 E 17th is the only comparable in the record with a finished, walkout basement like the subject. It sold for \$220,000 in June 2014 and is currently assessed for \$210,900. This evidence does not support Desenberg's inequity claim.

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).

Desenberg argues his property is inequitably assessed because it received a greater increase between assessment years 2013 and 2015 when matched against his comparable properties. His approach of comparing assessment changes among properties is not a recognized method for establishing inequity in the assessment.

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.

Desenberg offered four sale properties he considered comparable for an equity analysis. They were similar in style and construction grade; however, none had basement finish or a walkout basement like the subject property. The Board of Review also offered four sale properties; however, they had basement finish similar to the subject property and all sales occurred in 2014. The assessment/sales ratio for these properties indicate assessments are aligned with fair market values. No evidence was offered to show the fair market value of the subject property; therefore, we were unable to develop an assessment/sales ratio for Desenberg's property as required by *Maxwell* to complete the equity analysis. For these reason, Desenberg failed the show his property is inequitably assessed.

Order

IT IS THEREFORE ORDERED that the Warren 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.

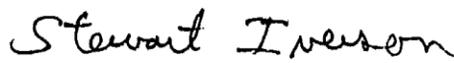
Dated this 14th day of January, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:
Dennis Desenberg
Brian Arnold