

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

PAAB Docket No. 2016-025-00215R

Parcel No. 12-36-479-001

Matthew Dinville,

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 27, 2016. Matthew Dinville was self-represented. Dallas County Assessor Steve Helm represented the Board of Review.

Dinville is the owner of a two-story, residential property located at 910 SE Brentwood Drive, Waukee. Dinville's dwelling was built in 2003, has 2829 square feet of gross living area (GLA), 1550 square feet of finished basement, a 3-car attached garage, and a deck. The site is 0.24 acres. (PRC, Exs. 1 & G).

The property's January 1, 2016 assessment was \$399,220, allocated as \$70,000 in land value and \$329,220 to improvement value. Dinville's protest to the Board of Review claimed that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Dinville re-asserts his claim of overassessment to PAAB and contends the subject property's correct assessed value is \$385,000. (Appeal to PAAB).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2016). 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).

Findings of Fact

Matthew Dinville testified that he purchased the subject property in April 2009 for \$310,000, as a foreclosure sale. He explained the only changes he has made to the property since purchasing it is some interior and exterior painting. He testified the hardwood floors are scratched and the master bathroom is in below average condition. For these reasons, Dinville believes it is unreasonable for the subject's assessed value to increase almost \$90,000 in the last seven years. However, County Assessor Steve Helm noted although Dinville believes the increase is unreasonable, Dinville's

calculation actually overestimates the increase in assessment. Dinville bases his calculation on the foreclosed purchase price. In fact, the assessment has only increased around \$50,000 since 2009, when the property was valued at approximately \$350,000.

Dinville submitted an appraisal completed by Norman (Mike) Swaim of Swaim Appraisal Services, Inc. (Ex 1). Swaim estimates a value of \$385,000, as of January 1, 2016. Swaim reported that “some of the flooring is dated, but serviceable,” (Ex. 1, p. 1), which may support Dinville’s assertion that there is deferred maintenance. However, Swaim identified the overall condition of the property as “good.” Ultimately, Swaim considered the condition of the home in determining the opinion of market value.

Swaim relied on the sales comparison approach and included four sales in his analysis, which are summarized in the following table.

Sale	Address	Sale Price	Sale Date	Site Size (SF)	Year Built	Gross Living Area (GLA)	Basement Finish	Adjusted SP
1	2805 SE Belfry Dr	\$356,000	Jul-15	12,750	2002	2215	No Finish W/O	\$397,400
2	1130 SE Brentwood	\$358,000	May-15	15,520	2004	2643	1169	\$363,800
3	780 SE Oak Leaf Ln	\$353,000	May-15	13,321	1998	2418	1150	\$371,900
4	2965 SE Timberline Dr	\$415,000	Mar-15	14,105	2002	3052	750 W/O	\$407,100

Sales 1, 2, and 4 are within one to three blocks of the subject property, and Sale 3 is roughly one mile west of the subject property.

Dinville explained that when Swaim inspected the property, he physically measured the exterior of the improvements to arrive at a GLA of 2829 square feet, which is larger than originally reported on the property record card (PRC) and used in the initial assessment. However, it appears Swaim then relied on the assessor’s records for the amount of basement finish. Dinville shared the appraisal with the Board of Review. Because there were discrepancies in the GLA, the assessor’s office requested to inspect the property prior to the PAAB hearing. As a result of the inspection, the Assessor’s Office confirmed the PRC was incorrect and that both the property’s above-grade living area and basement finish areas were larger than what was previously reported.

Helm testified that if the amount of basement finish were corrected in Swaim’s appraisal, the adjusted value of each the comparable sales would be increased by \$5250, thus indicating an adjusted range in value of \$369,100 to \$412,400 (rounded). Helm also asserted that Swaim’s Sale 2, located at 1130 SE Brentwood Drive, is an outlier and inferior to the subject for such things as the quality of its siding. We find there is insufficient evidence in the record to conclude that this property is inferior to the subject. However, the property was on the market for 100 days, compared to Swaim’s other sales that sold in 8-32 days, and does set the low end of the adjusted range. For these reasons, we will omit this sale from consideration.

Helm also believes Swaim’s Sale 3, located at 780 SE Oak Leaf Lane, is in a different elementary school district compared to the subject property. (Ex. H). Helm testified that in conversations with local Realtors, the different elementary school districts impact the marketability of properties. However, upon closer inspection of the school district boundary map (Ex. H), we note this sale is, in fact, located in the same elementary school district as the subject and the other sales in the record. Therefore, this sale is a reasonable comparable to the subject property.

The Board of Review submitted two sales (Exs. A-C) it believes are better comparables to the subject property than those used in Swaim’s appraisal. These properties are located within one to three blocks of the subject. Helm adjusted the sales using Swaim’s methodology for consistency. The following table is a summary of the sales.

Address	Sale Price	Sale Date	Site Size (SF)	Year Built	Gross Living Area (GLA)	Basement Finish	Adjusted SP
1050 SE Brentwood Dr	\$360,000	Aug-15	19,030	2002	2509	650	\$390,075
14289 Elmcrest Ct	\$415,000	Jan-15	11,390	1997	2717	1800 W/O	\$409,890

The Board of Review also submitted two listings in the subject property’s subdivision. The listings were not adjusted; however, both are one-and-a-half story homes and have similar exterior appeal to the subject. (Exs. E & F). They are listed for \$419,900 and \$439,900. The Board of Review asserts the sales and listings support the subject’s assessed value.

Dinville is critical of the Board of Review’s comparable properties. In his opinion, they are not reasonably comparable because the property on Brentwood Drive has a larger site than his property, and the improvements on Elmcrest Court are larger with an additional walk-out feature.

The Board of Review believes the best indicators of the subject’s value are the two sales it submitted in addition to Sales 1 and 4 in Swaim’s appraisal. The following table summarizes these sales. The adjusted values of Swaim’s two sales are corrected to account for the subject property’s actual amount of basement finish.

Address	Sale Price	Sale Date	Site Size (SF)	Year Built	GLA	Basement Finish	Adjusted SP
2805 SE Belfry Dr	\$356,000	Jul-15	12,750	2002	2215	No Finish W/O	\$402,650
2915 SE Timberline Dr	\$415,000	Mar-15	14,105	2002	3052	750 W/O	\$412,350
1050 SE Brentwood Dr	\$360,000	Aug-15	19,030	2002	2509	1210	\$390,075
14289 Elmcrest Ct	\$415,000	Jan-15	11,390	1997	2717	1941 W/O	\$409,890

The Board of Review asserts that these four sales support the assessment based on their average market value of \$403,000.

Conclusions of Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code 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).

Dinville testified that he purchased the property in 2009 for \$310,000 as a foreclosure sale; and that the 2016 assessment represents a \$90,000 increase in value. As previously noted, the assessment has only increased roughly \$50,000. Moreover, in this case, the subject’s sale is not a reliable indicator of value because it is dated and, more importantly, because it was an abnormal transaction. “Sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including...foreclosure or other forced sales.” *Id.*

Dinville also argued the assessment did not consider the impact of his deferred maintenance on the subject's market value. However, Dinville's own appraiser considered the property's deferred maintenance and still identified the subject property as in "good" condition.

The Swaim appraisal under-reported the property's basement finish. Correcting for his error in the amount of basement finish, his adjusted opinion of value should be \$390,250.

The Board of Review asserted only two of Swaim's comparables are reliable indicators of value. However, we find that Swaim's Sales 1, 3, and 4 are all reasonably comparable. Additionally, the Board of Review's two sales are reasonably comparable to the subject property and should be considered. The table below summarizes all of these properties.

Address	Sale Price	Sale Date	Year Built	GLA	Basement Finish	Adjusted SP
2805 SE Belfry Dr	\$356,000	Jul-15	2002	2215	No Finish W/O	\$402,650
780 SE Oak Leaf Ln	\$353,000	May-15	1998	2418	1150	\$377,150
2965 SE Timberline Dr	\$415,000	Mar-15	2002	3052	750 W/O	\$412,350
1050 SE Brentwood Dr	\$360,000	Aug-15	2002	2509	650	\$390,075
14289 Elmcrest Ct	\$415,000	Jan-15	1997	2717	1800 W/O	\$409,890

After correcting for the increased GLA and basement finish, which is currently under-reported on the 2016 property record card, we conclude these five sales support the subject's assessment. As such, Dinville has failed to prove that his property is assessed for more than the value authorized by law.

Order

IT IS THEREFORE ORDERED that the Dallas 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.

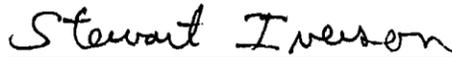
Dated this 14th day of December, 2016.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

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Dallas County Board of Review by eFile