

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

PAAB Docket No. 2015-077-00860R

Parcel No. 070/03619-000-000

Nanette Hall,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 9, 2016. Nanette Hall was self-represented. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Nanette Hall is the owner of a residential property located at 3115 5th Avenue, Des Moines. The subject property is a two-story dwelling, built in 1896. It has 1588 total square feet of living area; a partial unfinished basement with a one-stall garage; an open porch, enclosed porch, and a deck. It also has a 400 square-foot detached garage that was built in 1930. The dwelling is listed in above-normal condition with average construction quality (Grade 4-05). A 10% adjustment was made in prior assessments for functional obsolescence, in addition to the 40% physical depreciation. The site is 0.231-acres.

The property's January 1, 2015, assessment was \$114,400, allocated as \$17,800 in land value and \$96,600 in dwelling value. On her protest to the Board of Review, Hall claimed the assessment was inequitable as compared to similar properties and that her property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review granted the protest by applying a 5% nuisance factor, which reduced the assessment to \$108,200.

Hall then appealed to PAAB and seeks an assessment of \$85,800.

Findings of Fact

Hall testified her neighborhood has been plagued with crime and violence, which she contends has reduced the property values. (Ex. 2). She reports there have been shootings on her block, the property across the street is owned by a slumlord and is occupied by undesirable tenants, and many of the dwellings on the street are now used as rentals. (Ex. 1).

Hall provided a general background of the recent history of violence on her street. She supplied a police report from April 2015 detailing a shooting incident at 3122 5th Avenue where five shots were fired at the residence. 3122 5th Avenue is located across the street and two houses down from the subject. In addition, Hall submitted a Des Moines Register article detailing the armed robbery of a pizza delivery driver at 3214 6th Avenue. (Ex. 1). Lastly, Hall describes the owner of the property at 3122 5th Avenue as a slumlord.

Further, Hall believes there is a connection between the shooting death of a male juvenile in April 2016 and the juvenile's family, who are tenants at 3122 5th Avenue. A police report and a news story indicate that in May 2016 gunshots were fired from a Chrysler 300 at a group of kids. (Ex 1). Police officers found two bullet holes in the north side of the house located at 3017 5th Avenue, near the shooting. Apparently uninjured, the kids were driven from the scene by the resident of the property at 3122 5th Avenue. An additional police report indicates that the Chrysler 300 was also struck by gunfire while driving by 3017 5th Avenue that same evening.

Hall identified two equity comparables to the Board of Review. (Board of Review Petition). The first is located at 3126 5th Avenue, which is a two-story dwelling in the same neighborhood as the subject property. It is similar in age, living area, and quality as the subject property; however, as compared with the subject, it is in below-normal condition and lacks a garage. (Ex. E). It sold for \$60,000 in April 2015 in an arm's-length transaction despite its assessed value of \$88,700. The second is located at 204

E. Euclid and is assessed at \$85,400. It is listed in below-normal condition, has no garage, and we find it is inferior to the subject. (Exs. C & D).

Hall identified three comparable sales at 3126 5th Avenue, 3101 5th Avenue, and 3100 5th Avenue. (Ex. 1). The property at 3101 5th Avenue is assessed at \$57,200. It sold in November 2015 for \$10,000 to Home Buyer Group, LLC and then resold for \$19,000 in December 2015. The 3100 5th Avenue property is assessed at \$45,200. The owner, Oak Helm Partners out of Davenport, sold the property on contract for \$16,000 in January 2015. More recently, the buyer forfeited the contract and let the property go back to Oak Helm Partners. Hall testified the property is currently vacant.

Because of the circumstances surrounding the purchase and resale of 3101 5th Avenue and the fact that 3100 5th Avenue was sold on contract, we find those sales are not normal, arm's length transactions. No adjustments were made to account for these sales conditions. Further, the sales were not adjusted to account for differences between them and the subject property. Amy Rasmussen, Director of Litigation for the Assessor's Office, testified the Board of Review changed the condition of the 3126 5th property to below normal and applied a market adjustment to reduce the assessment to \$60,000.

The Board of Review identified five equity comparables in the neighborhood. The two-story dwellings were similar in age, living area, grade, and condition. We note the subject property has a larger site, a larger porch area, and a basement garage the others lack. The assessments were adjusted to account for differences between these properties and the subject property. No sale information was provided about these properties and an assessment/sales ratio could not be calculated for an equity analysis.

Rasmussen identified sales of five comparable properties used by the Board of Review in its analysis of Hall's protest. The following chart is a summary of those properties.

	Address	Eff Yr Built	Grade	TLA	Basement	AV	Sale Price	SP/SF	Adj Sale Price
	Subject	1896	4+05	1588	1022	\$108,200	N/A		N/A
1	3319 5th	1896	4+05	1483	401	\$112,000	\$109,000	\$73.50	\$ 122,400
2	3120 4th	1890	3-10	1912	956	\$115,800	\$118,000	\$61.72	\$ 112,400
3	3500 5th	1912	4+05	1552	728	\$ 97,400	\$ 94,000	\$60.57	\$ 108,400
4	204 E Euclid	1907	4+05	1666	833	\$ 85,400	\$ 78,000	\$46.82	\$ 83,200
5	3419 4th	1910	4+05	1833	780	\$105,200	\$ 99,000	\$54.01	\$ 90,600

We note that Hall's dwelling has the largest basement and is the only one with a basement garage.

The sale prices were adjusted to account for differences between them and the subject property. The indicated value for the subject property is \$109,400 based on this analysis. Hall's property is assessed at \$108,200, or \$68.14 per-square-foot, which is within the range of sales prices and adjusted sales prices.

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.* In arriving at market value, sales in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors which distort market value, including but not limited to . . . foreclosure or other forced sales [and] contract sales.”
Id.

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).

Hall provided three comparable sales in support of her claim. We found two sales were abnormal and no adjustments were made to account for the abnormal sales conditions. Therefore, we give them no weight. The remaining property, 3126 5th Avenue, was sold for \$60,000 in April 2015. We found differences which make it inferior to the subject. No adjustments were made to account for these differences.

In addition, Hall testified to incidences of crime and violence on her street and in the neighborhood. We recognize the prevalence of crime and violence in a neighborhood can affect the residents use and enjoyment of their property and may impact the neighborhood's desirability in the market. To recognize this effect, the Board of Review applied a five percent economic obsolescence to the subject. Hall contends this adjustment is arbitrary and is too low. However, we find no support in the record for any adjustment greater than five percent.

The Board of Review provided five normal, arm's length sales with adjustments. Hall's property falls within the range of the adjusted sales prices of these comparables. In total, we find the evidence does not show that Hall's property is overassessed.

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.

Hall did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. We found both equity comparables submitted by Hall were inferior to the subject. In particular, each comparable was listed in below-normal condition compared to the subject’s above-normal condition and they also lacked garage space. These differences would contribute to their lower assessments.

Further, Hall did not offer evidence of the subject’s actual value, such as a sale of the subject, an appraisal, comprehensive market analysis, or recent, adjusted sales of comparable properties. Because there is no evidence of the subject’s actual market value, we were unable to develop an assessment/sales ratio for Hall’s’ property as required by *Maxwell* to complete the equity analysis. As a whole, the evidence does not demonstrate that Hall’s property is inequitably assessed.

Order

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

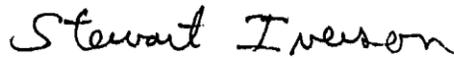
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will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



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

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