

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

PAAB Docket No. 2015-077-00780R

Parcel No. 100/09972-000-000

Jerzy Hofman,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 24, 2016. Jerzy Hofman was self-represented. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Hofman is the owner of a residential, one-story home located at 3933 Valdez Drive, Des Moines. Built in 1957, it has 1150 square feet of above-grade finish; a full basement with 600 square-feet of low-quality finish; and a two-car detached garage built in 1969. The site is 0.179 acres.

The property's January 1, 2015, assessment was \$123,200, allocated as \$28,000 in land value, and \$95,200 in improvement value. Hofman's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the 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 denied the petition. Hofman then appealed to PAAB.

Findings of Fact

Hofman reports there are several cracks in his foundation and that the roof has a leak on both the north and south side of the home. (Petition). Moreover, he stated that the cracked foundation and other settling that has occurred in his home should result in a diminution in value of \$18,000.

Hofman also submitted eight properties to the Board of Review that he believes support his claims. (Petition/Certified Record). The following chart is a summary of those properties.

	Gross Living Area (GLA)	Basement Finish/Quality	2015 Assessed Value	AV/SF
Subject	1150	600 Low Qual	\$123,200	\$107.13
1 - 3838 Valdez Dr	1448	600 Low Qual	\$151,300	\$104.49
2 - 3212 Garden Ave	1384	No Finish	\$101,500	\$73.34
3 - 4206 42nd St	1343	500 Low Qual	\$133,100	\$99.11
4 - 3911 39th St	1303	No Finish	\$129,000	\$99.00
5 - 4817 Seneca Ave	1309	400 Low Qual	\$120,800	\$92.28
6 - 3001 Fleming Av	1280	1100 Avg Qual	\$134,100	\$104.77
7 - 3602 Valdez Dr	1510	No Finish	\$161,800	\$107.15
8 - 3113 Twana Dr	1052	842 LQ Qual	\$145,800	\$138.59

Hofman analyzed the properties and asserts that because his property has the highest assessed value per-square-foot compared to the majority of other nearby properties, his assessment is inequitable and he is over assessed. However, Hofman's analysis is not proper methodology to support either an equity claim or market value claim.

First, none of Hofman's comparable properties recently sold, and therefore, we are unable to develop an assessment/sales ratio, which is necessary to prevail in an equity claim. Additionally, because the properties have not recently sold, there is no sales price to adjust in order to arrive at an opinion of market value for an over assessment claim.

Hofman submitted four additional properties to PAAB. While he reported sale dates for these properties, three occurred between 2011 and 2013 and are too old to be

considered for an assessment/sales ratio. Hofman reports that the fourth property, located at 3811 Merced Street, sold in November 2014, for \$149,900. He compares this sale price to its 2013 assessment of \$154,100. This is an incorrect comparison for an equity claim; rather it should have been compared to the 2015 assessment. Moreover, there is no information in the record of the 2015 assessment for this property; therefore, an assessment/sales ratio analysis cannot be developed. Further, more than one comparable is required to support an equity claim.

Hofman did not submit any evidence of the fair market value of his property, such as an appraisal, comparable sales adjusted for differences, or a cost analysis, which is necessary to support either an equity or fair market value claim.

Lastly, Hofman relied on a 2012 Property Tax Assessment Analysis developed by ValueAppeal, which he believes supports his opinion the property is over assessed. (Appeal). We do not find the 2012 document relevant to a 2015 appeal and give it no consideration.

The Board of Review’s record includes a spreadsheet of four properties that the Board considered in its decision. The following is a summary of that spreadsheet.

	Gross Living Area (GLA)	Basement Finish/Quality	2015 Assessed Value	AV/SF
Subject	1150	600 Low Qual	\$123,200	\$107.13
3920 Valdez Dr	1058	No Finish	\$123,300	\$116.54
3907 Valdez Dr	1120	No Finish	\$135,100	\$120.63
3917 Valdez Dr	1170	No Finish	\$134,000	\$114.53
4224 40th St	1092	No Finish	\$130,600	\$119.60

All of the properties are similar in age, grade, and include a detached garage like the subject property. Three of the properties are located on the same block and across the street from the subject; the fourth is half a block east. While none of the properties has basement finish, all have higher assessments and a higher assessed value per-square-foot, which does not suggest the subject is over assessed. Like Hofman’s comparable properties, none of the Board’s comparables are recent sales and an assessment/sales ratio analysis cannot be developed.

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.* 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.

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).

Hofman offered twelve properties in support of his claims. Only one property was a recent sale, but its 2015 assessment was not submitted; therefore, an assessment/sales ratio analysis could not be developed. Moreover, Hofman did not submit a credible opinion of market value for his property. Without this information, the assessment/sales ratio cannot be applied to determine if his property is equitably assessed. Hofman did not submit any other evidence of market value, such as a cost analysis or an appraisal, to demonstrate the property’s assessment exceeds its market value. For these reasons, we find the he has failed prove his claims.

Order

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

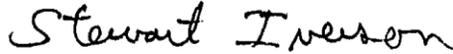
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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 18th day of July, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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