

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

PAAB Docket No. 2015-077-00862R

Parcel No. 181/00200-230-017

Nathan Koenig,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 18, 2015. Nathan Koenig is self-represented and requested his appeal be considered without a hearing. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Koenig is the owner of a two-story, residential dwelling located at 506 NE 24th Court, Ankeny, Iowa. The subject property has 2273 total square feet of living area, a full walkout basement with 758 square feet of living-quarters finish, and a 764 square-foot attached garage constructed in 2004. The property is also improved by an open porch, deck, and patio. The dwelling is listed in normal condition and with good quality construction (Grade 3+05). The site is 0.301 acres on a cul-de-sac. (Exhibits B & E).

The property's January 1, 2015, assessment was \$323,800, allocated as \$75,400 in land value and \$248,400 to improvement value. Koenig's 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.

Koenig then appealed to PAAB. He believes the subject property's correct assessment is \$298,500.

Findings of Fact

Koenig identified four, two-story properties with similar grades (3+05), he considered comparable to his property that had lower assessments than his property. (Exhibit D).

Address	Site SF	TSFLA	Base Fin	2015 AV
Subject	13,098	2273	758 LQ/WO	\$323,800
308 NE Georgetown	10,000	2295	0/WO	\$288,900
304 NE Georgetown	10,000	2239	850 Avg Plus	\$295,500
290 NE Georgetown	10,000	2339	760 LQ	\$275,900
2707 NE Innsbruck	10,806	2205	700 Avg Plus	\$295,800

In particular, Koenig believes the home at 308 NE Georgetown is the "exact same house." He also contends that his home has less valuable features and amenities than these properties, but did not provide any documentation to support this claim. Koenig also indicates realtors have advised him he would not likely be able to sell his home for the assessed value. He did not submit any evidence to support this assertion.

The Board of Review agrees the properties are in close proximity and similar to the subject. It believes there are differences, however, such as the amount and quality of basement finish, number of baths, walkout basement, and other amenities, that contribute to the value differences. Additionally, the subject is located on a cul-de-sac, whereas the compared properties are located on streets with higher traffic. The subject site is also larger than the compared properties. Moreover, we note that there is no evidence of recent sales of the subject and compared properties. Consequently, we are unable to develop an assessment/sales ratio for equity analysis.

The Board of Review also relied on a list of 2013 and 2014 sale comparables in support of its decision. The sales have been adjusted based on the difference 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	2273	\$323,800			
604 NE Mission	3+05	2131	\$293,600	\$335,000	88%	\$370,700
2108 NE Northbrook	3+00	2199	\$271,300	\$294,050	92%	\$349,050
324 NE Mission	3+05	2450	\$335,500	\$382,500	88%	\$372,500
601 NE Bristol	3+05	2388	\$298,000	\$324,250	92%	\$347,850
420 NE Mission	3+05	2423	\$332,200	\$357,000	93%	\$333,300

The sale prices range from \$133.72 to \$157.20 per-square-foot, and adjusted prices range from \$137.56 to \$173.96 per-square-foot. Both ranges bracket the subject's assessed value of \$142.45 per-square-foot. The assessment/sales ratio indicates the selected properties are assessed for less than their sale prices. Because there is no evidence of the subject property's fair market value, we are unable to calculate a ratio for the subject to complete an equity analysis.

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).

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 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).

Koenig did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Further, Koenig offered no evidence of the subject's fair market value, such as an appraisal, comprehensive market analysis, or

recent sales of comparable properties. Because there is no evidence of the subject's market value, we were unable to develop an assessment/sales ratio for Koenig's property as required by *Maxwell* to complete the equity analysis. Similarly, the lack of this evidence means Koenig has not established 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.

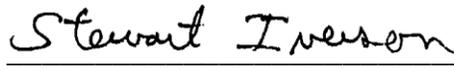
Dated this 25th day of February, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:
Nathan Koenig
Christina Gonzalez