

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

PAAB Docket No. 2015-077-00771R

Parcel No. 241/00949-529-000

Jami Lehman,  
Appellant,

vs.

Polk County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 19, 2016. Jami Lehman was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Lehman is the owner of a residential, two-story home located at 7071 Hillcrest Court, Johnston. Built in 1999, it has 1884 square feet of above-grade finish and a full, walk-out basement with 1036 square feet of average-plus finish. It also has a two-car attached garage, a deck, a patio, and an open porch. The site is 0.201 acres. (Ex. A).

The property's January 1, 2015, assessment was \$290,400, allocated as \$70,100 in land value and \$220,300 in improvement value. On her protest to the Board of Review, Lehman claimed the assessment was not equitable as compared with assessments of other like property and was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition. Lehman then appealed to PAAB, asserting the subject's correct assessment is \$260,000.

## General Principles of Assessment 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.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *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).

Moreover, the Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956). *See also White v. Bd. of Review of Polk County*, 244 N.W.2d 765 (Iowa 1976). Thus, while Lehman's arguments

focus in part on the subject's land value as determined by the Assessor, our analysis of her claims concentrates on the subject's total value.

## **A. Overassessment Claim**

### **i. Applicable 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).

### **ii. Findings of Fact**

Lehman purchased the subject property in August 2013 for \$253,000. Since that time, Lehman testified they have done some remodeling to the property including updating the master bath and removing the whirlpool tub. They replaced a window. They also finished the basement. The total cost of the remodeling and basement finish was just under \$43,000, of which, the basement finish cost was roughly \$24,500. (Ex. 1). Lehman believes the window replacement and master bath remodel did not contribute to the property's value because they did not require replacement but rather, were completed because of personal preference. Lehman also noted her property is a one-and-a-half story home, not a two-story as listed on the property record card. (Ex. A).

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, explained that the subject property's assessment was increased, in part, because of the addition of the basement finish. The finish, which is rated as average-plus, has a replacement cost new (RCN) of \$27,738. (Ex. B). After 5% physical depreciation and a negative 16% neighborhood location adjustment, this amenity has a replacement cost new less depreciation (RCNLD) of roughly \$22,135, which is slightly less than the actual cost. (Ex. B). Additionally, Rasmussen testified that 2015 was a revaluation year, which also contributed to the increase in assessment from 2013.

Lehman submitted two sales located at 6820 Henry James Court and 6802 Aubrey Court. (Exs. 6 & H). 6820 Henry James Court sold for \$268,000 in December 2014; and 6802 Aubrey Court sold for \$262,000 in May 2015. However, the sales were not adjusted for differences that exist between the properties nor were the sales used to opine a market value for the subject property.

The Board of Review submitted five sales it used as comparables, one of which was the subject property's 2013 sale. After adjusting the properties for differences, the indicated value was \$287,400. (Ex. F).

## **B. Inequity Claim**

### **i. Applicable Law**

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.

ii. Findings of Fact

Lehman believes her property is assessed higher than other comparable properties in her immediate area, and therefore inequitable. In particular, she asserts the site value is higher than nearby competing properties. Lehman relies on seven properties located in her neighborhood and map area– JH01/A1; she also provided the property located at 10416 Stonecrest Drive, Johnston, but decided not to rely on it. (Ex. C).

Lehman asserts all of these properties have walkout lots, like the subject, but, only her lot is being assessed for this amenity. Exhibit B shows the subject’s lot received a 10% positive adjustment for the walkout amenity. In addition, approximately \$2700 worth of value was attributed to the improvements for the walkout basement.

Rasmussen conceded that if the comparable properties are walkouts, like the subject, the listings for those properties are incorrect and the Assessor’s Office would need to inspect them to ensure they are listed and assessed correctly. Table 1 below is a summary of the comparable properties Lehman relied on. (Exs. C, 3-5, 6-7). Table 2 focuses on the properties with similar lot sizes.

Table 1.

Address	Site Size	2015 Assessed Site Value	AV/SF
Subject	8750	\$70,100	\$8.01
7031 Carey Ct	8810	\$63,800	\$7.24
7027 Carey Ct	11,550	\$67,000	\$5.80
7068 Hillcrest Ct	8780	\$63,800	\$7.27
7047 Carey Ct	17,368	\$73,900	\$4.25
7059 Hillcrest Ct	8750	\$63,700	\$7.28
7087 Hillcrest Ct	12,840	\$68,600	\$5.34
7047 Hillcrest Ct	11,910	\$67,500	\$5.68

Table 2.

Address	Grade	Gross Living Area	Garage	Basement Finish	Total Assessment
Subject	3+05	1844	588	1035 Avg+	\$290,400
7031 Carey Ct	3-10	2310	640	750 LQ	\$267,400
7068 Hillcrest Ct	3+00	2124	640	900 LQ	\$275,500
7059 Hillcrest Ct	3-05	1830	420	690 Avg+	\$231,100

The subject's lot is clearly valued higher than lots of similar size in the neighborhood. Of the properties with similar lot sizes, the property record cards for 7031 Carey and 7068 Hillcrest each indicate the property has a walkout basement and value is being attributed to the improvements for that amenity. However, neither lot is receiving the 10% positive adjustment that is applied to the subject's lot. (Ex. H). In contrast, it doesn't appear that 7059 Hillcrest is identified as having a walkout basement at all and therefore no adjustment is applied to either the land or improvements. (Ex. 8).

### **C. Analysis & Conclusion**

Lehman submitted the actual costs of the basement finish that was added to the property after it was purchased in 2013. The depreciated cost of this amenity in the assessed value is slightly less than Lehman's actual costs. Moreover, Rasmussen explained that there was an increase from the 2013 assessment to the 2015 assessment because it was a revaluation year.

While Lehman submitted two sales of comparable properties, there are differences between them and the subject and the sales are unadjusted. For example, the property at 6820 Henry James Court has a three-car garage and has slightly more gross living area (GLA) than the subject property; however, it has a slightly lower grade at 3+00 and there is no basement finish reported on the property record card. The sale at 6802 Aubrey Court is a one-story home compared to the subject's two-story design and it has a three-car garage. Like the other sale, it has a slightly lower grade. No opinion of fair market value was established for the subject property based on these comparable properties. Lehman did not submit any other evidence of fair market value, such as an appraisal or cost analysis.

The Board of Review submitted evidence indicating the subject property is over assessed, and its correct fair market value is \$287,400. Because we ultimately conclude a fair and equitable assessment of the subject is less than \$287,400, we need not give any further consideration to this evidence.

Regarding Lehman's inequity claim, it is apparent her claim falls within the *Eagle Foods* test. At a minimum, the evidence presented to PAAB indicates that a non-uniform assessing method is being applied with regard to lot valuations in the subject's subdivision. The subject's land value is being adjusted upward by 10% for the walkout amenity while other walkout properties are not receiving the same adjustment.

In addition, it appears there are properties within the subdivision that are not being adjusted for the walkout lot or are not having the walkout feature valued as part of the improvements. To ensure fairness and equity amongst the properties in this area, we recommend the Polk County Assessor's Office conduct a thorough review of the properties in this area for upcoming 2017 assessment cycle.

For these reasons, we find Lehman has supported her claim that her property is inequitably assessed under *Eagle*. Until such time as the aforementioned issues are corrected, we find the 10% adjustment for the walkout lot amenity must be removed from the subject property's land valuation so that it is assessed uniformly to the comparable properties.

### **Order**

Having concluded that the subject property is inequitably assessed, PAAB ORDERS that the Polk County Board of Review's action is modified to \$284,000, allocated as \$63,700 in land value and \$220,300 to the dwelling/improvements.

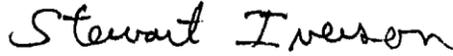
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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 15th day of September, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

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