

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

PAAB Docket No. 2015-091-01170R

Parcel No. 63-341-00-0100

Gary Lehmer,
Appellant,

v.

Warren County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 14, 2015. Gary Lehmer was self-represented. County Attorney John Criswell is counsel for the Warren County Board of Review.

The subject is a residential property located 2308 Swan Drive, Norwalk. It is a one-story home with 962 square feet of living area built in 1990. It also has two wood decks, a small open porch, and an attached one-car garage. The site is 0.186 acres.

The property's January 1, 2015, assessment was \$112,500, allocated as \$35,000 in land value and \$77,500 to dwelling value. Lehmer protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property and that there is an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a) and (d). The error claim asserted the size of the improvements was misreported.

The Board of Review denied the petition. Lehmer appealed to this Board renewing only his claim of inequity. He asserts the correct assessed value is \$91,152.

Findings of Fact

Lehmer asserted the assessment of his property is inequitable compared to five neighboring properties. The following chart summarizes the properties he submitted to the Board of Review.

	Gross Living Area (GLA)	2015 Assessed Value	AV/SF
Subject	962	\$112,500	\$116.94
2307 Swan Dr	1056	\$114,200	\$108.14
2114 Avery Ave	962	\$109,500	\$113.83
2109 Avery Ave	962	\$111,400	\$115.80
1301 Casady Dr	962	\$111,700	\$116.11
2127 Swan Dr	890	\$106,000	\$119.10

All of the properties Lehmer submitted are similar one-story homes built between 1988 and 1990, with no basement finish. The subject property and 2127 Swan Drive have a 4-05 grade; the remaining comparables have a 4-00 grade. We add that the subject has a large deck space, which all of the comparables lack, and which would contribute to the subject's higher assessment. The comparables are listed as having three bedrooms while the subject has two bedrooms. Lehmer asserts this should result in a reduction to the subject property's assessment. While it is possible the market would prefer a three-bedroom property compared to a two-bedroom party, there is no evidence in the record to support this assertion or an applicable adjustment to warrant a reduction in the assessment.

Overall, we find the properties are sufficiently similar to the subject for an equity comparison. The subject's assessed value per-square-foot of \$116.94 is within the \$108.14 to \$119.10 assessed value per-square-foot range of his comparables.

None of the properties sold and Lehmer did not submit an opinion of market value for the properties; therefore, an assessment/sale ratio analysis cannot be developed, which is necessary to support an equity claim. He did not submit any other evidence.

Lehmer also testified that he did not believe the land values were equitable as they were all assessed at \$35,000.

	Site Size	2015 Assessed Site Value	AV/SF
Subject	8125	\$35,000	\$4.31
2307 Swan Dr	13,975	\$35,000	\$2.50
2114 Avery Ave	8125	\$35,000	\$4.31
2109 Avery Ave	8125	\$35,000	\$4.31
1301 Casady Dr	8400	\$35,000	\$4.17
2127 Swan Dr	13975	\$35,000	\$2.50

He notes the assessments range from \$2.50 to \$4.31 per-square-foot and asserts it is not consistent or fair that his smaller site should have a higher price-per-square-foot than nearby larger sites. We note it appears the sites were assessed on a per-site basis rather than a per-square-foot basis. See IOWA REAL PROPERTY APPRAISAL MANUAL, p. 2-6, available at <https://tax.iowa.gov/iowa-real-property-appraisal-manual>. The IOWA REAL APPRAISAL MANUAL indicates that “the site method is used when the marketplace does not indicate a significant difference in lot value even when there is a difference in the lot size” and is typically used in residential subdivisions.

The Board of Review relied on three properties in its decision to deny the protest. The following chart summarizes the properties.

	2015 Assessment	Sale Price	Sale Date	Assessment/Sale Ratio
Subject	\$112,500	N/A	N/A	N/A
117 Cherry St	\$120,800	\$110,000	Dec-14	1.10
831 Redwood Dr	\$120,300	\$104,000	May-14	1.16
2309 Swan Dr	\$120,700	\$120,000	Sep-14	1.01

The properties submitted are all similar one-story homes with no basement finish like the subject; and 4+05 grades compared to the subject’s 4-05 grade. The comparables indicate an assessment/sales ratio between 1.01 and 1.16, with a median of 1.10. This generally indicates similar properties are assessed at 10% more than their

market value. Again, there is no evidence of the subject's actual value to complete a comparison and equity analysis.

The Board of Review did not submit any new evidence.

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.

Lehmer offered five properties he considered comparable to his for an equity analysis. The record indicates the properties are substantially like the subject property, and we find them comparable. This evidence indicates that the subject’s assessment is in-line with similarly situated properties. Further, there is no information in the record indicating any of these properties has recently sold; and he did not submit evidence of the properties’ market values to complete an assessment/sales ratio analysis.

In addition, while Lehmer attempts to assert the Assessor applied different prices per-square-foot in the valuation of the sites, we do not believe this is the case. Rather, it appears the Assessor permissibly and uniformly applied a price per-site, and all of the properties have similar land assessments. As such, lowering Lehmer’s land assessment would actually cause inequity.

For the foregoing reasons, the Board finds that Lehmer failed to show his property is inequitably assessed as compared to like properties.

Order

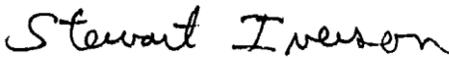
IT IS THEREFORE ORDERED that the Warren County Board of Review's action is affirmed.

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 8th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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Brian Arnold