

Property Assessment Appeal Board
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01103R

Parcel No. 8947-20-179-010

Phong Thang Nguyen,

Appellant,

v.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for a telephone hearing before the Property Assessment Appeal Board (PAAB) on May 11, 2016. Phong Thang Nguyen was self-represented and assisted by Henry Nguyen. Li Huang served as Vietnamese/English interpreter for Phong and Chi Nguyen. Attorney Jack Faith represented the Sioux City Board of Review.

Nguyen is the owner of a one-story, residential dwelling located at 2234 Rebecca Street, Sioux City, Iowa. The dwelling was built in 1951 and has 936 total square feet of living area, a full basement with 400 square-feet of average finish. It is listed in normal condition and with average quality construction (Grade 4+05). The property is also improved by a 468 square-foot detached garage built in 1954 and a shed. The site is 0.221-acres.

The property's January 1, 2015, assessment was \$95,800, allocated as \$22,400 in land value and \$73,400 to improvement value. Nguyen protested to the Board of Review claiming the assessment was 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-b).

The Board of Review granted the protest and reduced the assessment to \$92,800, allocated \$22,400 to land value and \$70,400 in improvement value.

Nguyen then appealed to PAAB. He believes the subject property’s correct assessment is \$83,400, which was the subject’s assessment from 2011 to 2014.

Findings of Fact

Chi Nguyen testified they purchased the house in 1995 for \$68,000. According to Ms. Nguyen, the dwelling is in its original condition, and they have not remodeled or made improvements to the property, other than a recent roof replacement. Under these circumstances, she would like an explanation for the increased assessment. Ms. Nguyen reported they requested an inspection by the Assessor to verify the condition of the property; however, the property was not inspected. She renewed the request at the hearing.

Phong Nguyen testified he recognized his responsibility as a taxpayer, but believes the increased real estate taxes are unreasonable and will be a burden on the family. While the Nguyens did not offer any evidence of the property’s market value, they believe the assessment is too high.

The Assessor identified five sale properties, which he considered comparable for the Board of Review. The following summarizes the properties’ information.

Address	TSFLA	Sale Price	Date of Sale	SP/SF
Subject	936	N/A	N/A	N/A
1620 W 29th	816	\$78,000	9/8/2014	\$95.59
1509 W 29th	864	\$98,000	5/13/2013	\$113.43
2921 Center	920	\$85,000	4/25/2013	\$92.39
2959 Center	848	\$84,000	11/29/2014	\$99.06
1405 W 28th	864	\$93,000	9/28/2014	\$107.64
			Average SP/SF	\$101.62
			Median SP/SF	\$99.06

No evidence was provided to show the assessed values of the comparable properties or the market value of the subject property. Because this evidence is necessary to develop an assessment/sales ratio, we are unable to complete an equity

analysis. Nguyen did not allege the Assessor failed to apply an assessing method uniformly to his property and similar properties. For these reasons, his equity claim is unsupported.

Nguyen's assessment of \$92,800 is higher than the comparable sales' median sale price of \$85,000; however, his property has more living area than all the comparables. The sales data is not adjusted to account for difference between them and Nguyen's property. However, the subject is assessed at \$99.15 per-square-foot, which is close to the median and average price per-square-foot of the Assessor's comparables sale properties. Finally, Nguyen did not offer any other evidence to determine the fair market value of his property, such as an appraisal, comprehensive market analysis, or comparable sales. Without this evidence, there is insufficient support for his over-assessment claim.

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, Praster did not shift the burden, and therefore, he 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.* Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors, which distort market value. *Id.*

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).

Nguyen did not allege that the Assessor failed to uniformly apply an assessing method under the *Eagle Foods* test. Importantly, he offered no evidence of the

subject's fair market value, such as an appraisal, comprehensive market analysis, or recent sales of comparable properties. Because Nguyen did not provide sufficient evidence of the subject's market value, we were unable to develop an assessment/sales ratio for the subject as required by *Maxwell* to complete the equity analysis. Similarly, the lack of market value evidence means Nguyen has not established the subject is assessed for more than authorized by law.

This Board recommends the Board of Review arrange for an interior inspection of the property to determine whether adjustments or revisions need to be made to Nguyen's property listing for the next assessment.

Order

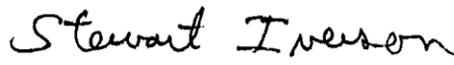
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is affirmed.

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 1st day of June, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Phong Thang Nguyen

Jack Faith