

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

PAAB Docket No. 2015-025-00427R

Parcel No. 08-01-454-002

Debra Kay Oberender,

Appellant,

v.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 21, 2015. Debra Kay Oberender was self-represented. County Attorney Wayne Reisetter is legal counsel for the Dallas County Board of Review and Assessor Steve Helm represented it at hearing.

Oberender is the owner of a one-story, residential dwelling located at 2105 Locust, Granger, Iowa. The subject property has 1352 total square feet of living area, a full, unfinished basement, a 728 square-foot attached garage, and a concrete patio. It was constructed in 2002. The dwelling is listed in normal condition and with good quality construction (Grade 3-5). The site is 0.31-acres.

The property's January 1, 2015, assessment was \$158,760. Oberender's protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property and that there was an error in the assessment under Iowa Code section 441.37(1)(a)(1)(a) and (d). We find Oberender's error claim essentially is included in her equity claim.

The Board of Review granted the petition and reduced the assessment to \$152,500, allocated \$33,490 to land value and \$119,010 to improvement value.

Oberender then appealed to PAAB. She believes the subject property's correct assessment is \$140,300.

Findings of Fact

Oberender testified her property is located in an undesirable location next to an apartment building and in a former flood zone. Traffic is heavy in the area and tenants from the apartments have driven across her yard in the past. In Oberender's opinion, Granger lacks amenities, such as shopping and adequate roadways, and this should be considered in determining the assessment, as well.

Oberender testified she has made few improvements to her property to cause the increase in her assessment. She believes the assessments of other properties with new roofs and gutter have increased less than her assessment. She reported that assessments in the area typically increased 1% to 8%, while her property assessment increased 11%.

Oberender identified five properties in Granger by address and listed their assessed value, as shown in the chart below.

Comp	Address	Assessment
	Subject	\$152,500
1	2106 Sycamore	\$126,220
2	1804 Linden	\$133,540
3	2106 Walnut	\$124,600
4	2104 Walnut	\$133,000
5	2200 Locust	\$136,350

She testified these properties had lower percentage increases in their assessment than her property. No other information was provided to determine if these properties are comparable to her property in attributes such as style, location, construction quality, and total living area, and there was no indication any recently sold. The information provided was insufficient to calculate an assessment/sales ratio and complete an equity analysis.

Likewise, Oberender did not submit any evidence of the subject's fair market value, such as an appraisal, comparable sales, or comprehensive market analysis. As a result, we were unable to develop an assessment/sales ratio to complete the equity analysis.

The Board of Review did not submit any evidence or offer any testimony.

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.

Oberender offered five properties she considered comparable for an equity analysis. However, no evidence was presented to determine whether they are comparable to Oberender’s property or if they are recent sales. The evidence was insufficient to develop an assessment/sales ratio for Oberender’s property as required by *Maxwell* to complete the equity analysis. For these reasons, Oberender failed to show her property is inequitably assessed.

Order

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

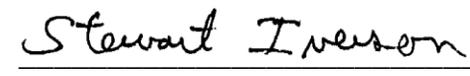
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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 26th day of January, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Debra Kay Oberender

Steve Helm