

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

PAAB Docket No. 2015-077-00867R

Parcel No. 181/00553-039-001

Janice J. O'Neel,
Appellant,

v.

Polk Board of Review,
Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on December 18, 2015. Janice O'Neel was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

O'Neel is the owner of a residential, one-story home located at 1114 NW 4th Street, Ankeny. The home, built in 1963, has 1283 square feet of living area. It also has a full basement with 910 square feet of average finish, an open front porch, a patio, and an attached one-car garage. The site is 0.407-acres. (Ex. H).

The property's January 1, 2015, assessment was \$172,200, allocated as \$48,000 in land value and \$124,200 in dwelling value. O'Neel protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). She also asserted an error in the assessment under section 441.37(1)(a)(1)(d) because she does not believe a nearby abandoned property was properly considered in the assessment of her property.

The Board of Review denied the petition and O'Neel appealed to this Board, reasserting only her equity claim. She believes the correct assessment is \$162,700.

Findings of Fact

O'Neel submitted four equity comparables to this Board, summarized in the following chart.

Address	2015 Assessed Value	Year Built	Gross Living Area	Basement Finish/Quality	2015 AV/SF
Subject	\$172,200	1963	1283	910 Avg	\$134.22
1118 NW 4th St	\$164,500	1970	1114	768 Low	\$147.67
1110 NW 4th St	\$160,900	1962	1248	936 Low	\$128.93
1106 NW 4th St	\$169,400	1961	1280	800 Avg+	\$132.34
205 NW Scott St	\$126,000	1960	1232	325 Avg	\$102.27

O'Neel provided a written description, photographs, and the property record card for each of the comparable properties. (Exs. 1-4). All of the properties have some basement finish, however there is a variance in the amount and quality, which would affect the assessed values.

She also makes a comparison of the properties based on their lot sizes. In particular, O'Neel indicates her belief that the land values of 1100 NW 4th St and 1106 NW 4th St are too low. We note the owner of 1110 NW 4th St also owns a contiguous, unimproved, landlocked, and separately assessed parcel that is valued at \$4700. Similarly, the owner of 1106 NW 4th St also owns a contiguous, separately assessed parcel that contains a greenhouse and has a land value of \$4600. It is unclear whether O'Neel recognized that these properties are not considered to be single lots. Regardless, the evidence indicates that the subject's land value is consistent with that of 1118 NW 4th and the lots are of near identical size.

Address	Land Value	Lot Size
Subject	\$48,000	17,737
1118 NW 4th St	\$48,000	17,735
1110 NW 4th St	\$41,000	11,310
1106 NW 4th St	\$43,100	13,195
205 NW Scott St	\$40,500	10,800

O'Neel notes that her comparable properties all had their 2015 assessments reduced, whereas her assessment has remained the same. Additionally, it is her belief these properties have superior amenities such as fences, cobblestone pathways, and newer landscaping. In response, the Board of Review submitted comments that many of these items are not considered in the assessment and therefore not relevant. (Ex. A).

Only one of the four properties has recently sold; 205 NW Scott Street sold in April 2014 for \$115,000. However, this sale was from Grinnell State Bank as the result of a foreclosure, which would make it an abnormal sale and not useful for an equity analysis. Moreover, the Board of Review notes a reduction was made to the 2015 assessment to reflect the condition of the property at the time of sale. (Ex. A).

None of the remaining properties has sold and O'Neel did not submit an estimate of the fair market value to develop an assessment/sales ratio analysis to support an equity claim.

The Board of Review relied on five comparables in its decision. The Board of Review reduced the assessments of two of the comparables, 1106 and 1100 NW 4th St. After the reductions, the comparables' assessments ranged from \$157,800 to \$169,400, or \$127.05 to \$132.34 per-square-foot. Like O'Neel's comparables, none of these properties has sold and the Board of Review did not submit an opinion of market value to develop an assessment/sales ratio analysis.

Despite both parties failing to provide sufficient information to develop an assessment/sales ratio analysis, the comparables O'Neel submitted to this Board and the Board of Review's comparables indicate an assessed value per-square-foot ranging from \$102.27 to \$147.67. 205 NW Scott Street, a recently foreclosed property, set the lower end of this range. Removing it, the remaining properties indicate an average assessed value of \$132.57 per-square-foot, compared to the subject's assessed value per-square-foot of \$134.22; suggesting its assessment is similar to other like properties.

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.

O’Neel offered four properties she considered comparable to her for an equity analysis. With the exception of one property (205 NW Scott Street) that sold as a foreclosure, there is no information in the record indicating any of these properties has recently sold or any information about their market values. This information is necessary to establish inequity in the assessment.

O’Neel is critical that the Board of Review made reductions to the assessments of other neighboring properties, but did not reduce her property’s assessment. While we understand her frustration, the reduction of neighboring properties’ assessments, for reasons unknown, does not mean her property’s assessment should also be reduced. The evidence before this Board indicates that there are differences between the properties that can explain the variances in assessments, but also that the subject’s assessment is generally equitable on a per-square-foot basis. Lastly, O’Neel did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

For the foregoing reasons, the Board finds that O’Neel failed to show her property is inequitably assessed as compared to like properties.

Order

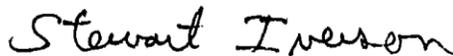
IT IS THEREFORE ORDERED that the Polk Board of Review's action is affirmed.

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 22nd day of January, 2016



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Janice O'Neel

Christina Gonzalez