

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

PAAB Docket No. 2015-077-00904R

Parcel No. 090/04649-000-000

Shannon Thill,  
Appellant,

v.

Polk County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Shannon Thill was self-represented and requested a written consideration. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Thill is the owner of a residential, two-story home located at 3207 School Street, Des Moines. The home, built in 1910, has 1230 square feet of above grade finish; a full, unfinished basement; two porches; and a one-car detached garage. The site is 0.153 acres.

The property's January 1, 2015, assessment was \$144,100, allocated as \$27,600 in land value and \$116,500 in improvement value. After an urban revitalization credit (abatement), the total assessment is \$111,080. Thill's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property; and that the property was assessed for more than the value authorized by law; and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a-b, d). The Board of Review denied the petition.

Thill appealed to PAAB and asserted the subject property's assessment should be \$130,000.

## Findings of Fact

Shannon Thill submitted the following four properties and their assessments as equity comparables.

|               | 2015 Assessed Value |
|---------------|---------------------|
| Subject       | \$144,100           |
| 933 31st St   | \$117,000           |
| 651 38th St   | \$129,900           |
| 3310 lola Ave | \$106,500           |
| 666 38th St   | \$110,500           |

Thill did not provide any other information about the properties and we are unable to determine if they are comparable to the subject. Simply comparing assessments is not sufficient evidence to prevail on an equity claim. Moreover, there is no information indicating any of the properties have recently sold and Thill did not provide an opinion of market value for the properties. Therefore, we cannot develop an assessment/sale ratio analysis.

Thill is critical of the assessment because it lists a detached structure as a garage. Thill asserts the structure cannot be used as a garage because of access issues and it should be considered a shed. The record indicates the structure is listed as a Grade 5 in above-normal condition. The Iowa Real Property Appraisal Manual 2008 (p. 7-36) identifies a Grade 5 as “a lower quality garage...generally found in older areas or in low quality developments. Single wall siding, 2” x 4” studs 24” o.c., roll roofing or light weight shingles, thin concrete or asphalt floor, no or minimal electric, low quality windows and entrance door (if any), lower quality overhead door or hinge door.” A grade 6 garage is noted as “being similar to a shed” (p. 7-36). Thill did not offer any evidence, such as photographs, which would demonstrate this improvement should have a grade 6 compared to a grade 5 rating.

Thill did not provide any other evidence of the property’s fair market value such as an appraisal, comparable sales, or a comprehensive market analysis.

The Board of Review notes the subject property has had improvements over the last several years and is listed in very good condition. (Ex. A).

The Board of Review's certified record also included a summary of five properties that were adjusted for cost differences, which the Board of Review presumably relied on in its decision.

| Address         | Sale Price | Sale Date | Adjusted Sale Price |
|-----------------|------------|-----------|---------------------|
| 3407 Crocker St | \$132,000  | Aug-14    | \$125,100           |
| 1000 37th St    | \$159,900  | May-13    | \$162,800           |
| 944 38th St     | \$145,000  | Aug-14    | \$168,500           |
| 1078 36th St    | \$110,000  | Aug-14    | \$129,000           |
| 1146 38th St    | \$120,000  | May-14    | \$102,000           |

All of the properties are two-story homes built between 1910 and 1926. The subject's assessed value of \$144,100 is within the unadjusted and adjusted ranges.

### **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 residential assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Thill offered four properties for an equity analysis, but did not provide any evidence for this Board to determine if they were comparable to the subject. Further, it is unclear whether any of these properties recently sold and Thill did not offer an opinion of their market value. Therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, Thill did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

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). Thill provided no evidence to establish the subject property was over-assessed.

Lastly, Thill contends there is an error in its assessment. Section 441.37(1)(a)(1)(d) is not limited solely to clerical or mathematical errors, but includes other claims of error. Iowa Admin. Code r. 701-71.20(4)(b)(4) (noting improper classification also constitutes an error). Thill asserted the garage is inaccessible and should be valued as a shed. No evidence, such as photographs, were provided to support this assertion. As a result, there is no evidence from which we can conclude there is an error in the assessment.

### **Order**

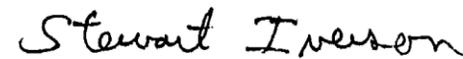
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

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.

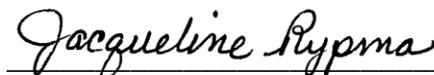
Dated this 28th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:  
Shannon Thill  
Christina Gonzalez