

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

PAAB Docket No. 2015-077-00853R

Parcel No. 181/00220-228-075

Michael and Sandra Wegner,  
Appellants,

vs.

Polk County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 2, 2016. Michael and Sandra Wegner were self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

The Wegners are the owners of a residential, two-story home located at 3809 SW 4th Court, Ankeny. Built in 2007, it has 3599 square feet of above-grade finish and 1967 square-feet of living-quarter quality basement finish. It also has a three-car attached garage. The site is 0.811 acres. (Ex. A). The property also has a large deck and patio (Ex. B), which are not valued in the 2015 assessment.

The property's January 1, 2015 assessment was \$824,100, allocated as \$90,000 in land value and \$734,100 in improvement value. On their protest to the Board of Review, the Wegners claimed the assessment was not equitable as compared with assessments of other like property and was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition. The Wegners then appealed to PAAB, asserting the subject's correct assessment is \$650,000.

## General Principles of Assessment 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.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *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).

### i. Inequitable Assessment

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.

ii. Assessed for More than Authorized by Law

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).

## Findings of Fact

The Wegners purchased their property in September 2013 for \$845,000. (Ex. A). Michael Wegner testified that one of the reasons they purchased the subject property was because of the views of a city owned pond to the rear, as well as additional timber area. (Ex. I). He asserts however, that these perceived amenities have not proven to add value. The city has not been maintaining the pond to the level it had been and the timber attracts neighborhood kids thereby compromising the quiet enjoyment of their property.

Although the Wegners assert their property is over assessed, they did not submit any evidence of the fair market value of the subject property; or provide any testimony regarding the market value. Therefore, we turn to their equity claim.

Wegner testified about the data he submitted to the Board of Review and also relied on for his appeal to PAAB. (Ex. 2). Wegner compiled a list of all one-and-one-half story and two story properties with 3000 to 4600 square feet in his neighborhood in order to compare their assessments. Table 1 is a summary of all of the properties he submitted.

Table 1.

Address	2015 Assessment	Gross Living Area (GLA)	AV/SF
Subject	\$824,100	3599	\$228.98
8735 NW 26th St	\$598,700	3167	\$189.04
2380 NW Polk City Dr	\$655,800	3281	\$199.88
2324 NW Polk City Dr	\$459,700	3037	\$151.37
707 NW Rockcrest Cr	\$403,000	3065	\$131.48
1220 NW Boulder Point Pl	\$408,800	4201	\$97.31
204 SW Camden Dr	\$705,100	4582	\$153.88
3916 SW 2nd Ct	\$428,000	3005	\$142.43
127 SW Stonegate Dr	\$437,100	3000	\$145.70
106 SW Stonegate Dr	\$472,700	3054	\$154.78
3907 SW 2nd Ct	\$694,600	4132	\$168.10
3817 SW 2nd Ct	\$492,200	3255	\$151.21
3820 SW 2nd Ct	\$506,800	3240	\$156.42
3807 SW 3rd Ct	\$517,600	3199	\$161.80
3903 SW 3rd Ct	\$444,600	3116	\$142.68
3906 SW 4th Ct	\$473,900	3186	\$148.74
3808 SW 4th Ct	\$479,400	3069	\$156.21
3905 SW 4th Ct	\$504,500	3423	\$147.39

Wegner asserts all of the homes in his neighborhood were built by the same builder and have very similar features. The comparable properties were built between 2005 and 2008, with an average assessed value per-square-foot of approximately \$153.00.

However, his property is assessed higher on a per-square-foot basis. For this reason, he believes his property is inequitably assessed.

Wegner's over-arching concern is with the "quality" of the properties as noted on the assessor's office cost sheets. He does not believe the properties are of any significant quality difference.

Director of Litigation for the Polk County Assessor's Office, Amy Rasmussen, testified for the Board of Review. She explained that comparing the assessed value per-square-foot of properties is not a proper method for determining equitability.

Rasmussen specifically testified about five properties Wegner considered comparable to his. Table 2 is a summary of these properties.

Table 2.

Address	2015 Assessment	Gross Living Area (GLA)	AV/SF	Grade
3905 SW 4th Ct	\$504,500	3423	\$147.39	1-10
204 SW Camden Dr	\$705,100	4582	\$153.88	1+10
3808 SW 4th Ct	\$479,400	3069	\$156.21	1-10
3820 SW 2nd Ct	\$506,800	3240	\$156.42	1+05
127 SW Stonegate Dr	\$437,100	3000	\$145.70	1-10

Rasmussen explained the subject is graded 0+10, which is equivalent to E+10 in the IOWA REAL PROPERTY APPRAISAL MANUAL. Manual, Grading Section, *available at* <https://tax.iowa.gov/sites/files/idr/documents/3GRADINGSECTION.pdf>. However, the Polk County Assessor reports the grade as "0" because of the numerical constraints of its computer system. An E-Grade (quality) is the highest grade for a property. She commented on the property cost reports for the subject property and the original five comparable properties the Wegners submitted to the Board of Review. (Exs. B & D).

Wegner asked why the costs for similar features such as heating/cooling, fireplaces, or fixtures, as examples, were higher for his property than these properties. Rasmussen explained the higher the grade of a property, the higher the cost for each component.

Wegner reiterated his belief that many of the properties in the record are similar in quality to his as they had the same builder and construction materials. PAAB also

questions the grade assigned to some of the properties in Table 1, as compared to the subject property, based on the exterior photos of the properties. (Ex. C). The properties are 3808 SW 4th Court and 127 SW Stonegate Drive, which both have lower grades (1-10) than the subject but based on the photos have lower quality architectural design, window packages, and rooflines. The remaining three properties identified in Table 1 appear to have similar exterior appeal to the subject property such as multi-gabled roof lines and individual garage doors. However, they are all graded between 1-10 and 1+10, which is lower than the subject. Rasmussen explained the grade is determined when the property is built based on the construction and quality of the materials in each property, although it could be changed after a property is constructed. PAAB believes the Board of Review should revisit the grades it has applied, to what appears to be strikingly similar properties to the subject in this case, to determine if the subject's grade is artificially high or other properties grades are artificially low.

The Board of Review also submitted an appraisal completed by Brandon Richards, Ascend Valuation Services, LLC, Waukee, which was completed when the Wegners purchased the property. In August 2013, Richards opined a market value of \$850,000 for the subject property. Rasmussen contends values have increased since Richard's 2013 appraisal.

Wegner considered the properties in Richard's appraisal and compared the 2013 sale or list prices to their 2015 assessed values. (Ex 1). The following table summarizes Wegner's analysis.

Sales	2015 Assessed Value	2013 Sale/*List Price	Ratio
1 - 2327 NW 87th Ave	\$921,300	\$1,000,000	0.92
2 - 1210 NE 42nd Ct	\$722,000	\$780,000	0.93
3 - 1807 SW 19th St	\$534,700	\$600,000	0.89
4 - 2104 SW Woodside Ct	\$828,500	*\$1,199,000	0.69
Subject	\$824,100	\$845,000	0.98

Based on this analysis, Wegner asserts Sales 1 through 3 are assessed for 8-11% less than their market values; whereas his property is assessed for only 2% less than its market value.

### **Analysis & Conclusion**

Although the Wegners originally claimed their property was over assessed, they offered no evidence of the fair market value, such as comparable property sales, an appraisal supporting a lower value, or a cost analysis, to demonstrate the property is assessed for more than authorized by law.

Further, Wegners submitted no evidence in support of an inequity claim under the *Eagle Food Centers* test. The record as a whole does not support any conclusion that the assessor applied a method of assessment in an inconsistent manner.

The Wegners did submit a list of comparable properties, their total assessments, and their assessments per square foot. This evidence, however, is not appropriate evidence to support an equity claim.

Wegner also attempted to complete the *Maxwell* test by using sales from a 2013 appraisal of their property. However, the data Wegner had available to him was not appropriate for the *Maxwell* analysis. Wegner compared the 2015 assessed value in question to the 2013 sale price or list price of the comparable properties in the appraisal. To correctly develop this analysis, a prior year's sale, in this case a 2014 sale price should be compared to the 2015 assessed value.

For the aforementioned reasons, we find the Wegners failed to show the Assessor's Office did not apply an assessing method uniformly to similarly situated or comparable properties, or that their property is inequitably assessed.

### **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

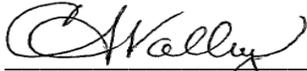
PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

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.

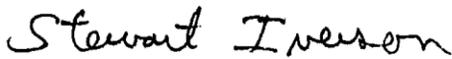
Dated this 19th day of December, 2016.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

Michael and Susan Wegner by eFile

Mark Taylor by eFile