

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

PAAB Docket No. 2015-101-00109R

Parcel No. 14232-27003-00000

David J. Zylstra,
Appellant,

v.

City of Cedar Rapids Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on November 25, 2015. David J. Zylstra was self-represented and requested his appeal be considered without a hearing. Assistant City of Cedar Rapids Attorney Mo Sheronick represents the Board of Review.

Zylstra is the owner of a residential property located at 2168 Linden Drive SE, Cedar Rapids, Iowa. The subject property is a two-story, frame dwelling with 3145 total square feet of living area, a full walkout basement with 844 square feet of living-quarters finish, a 676 square-foot attached garage, open porches, patio, and deck constructed in 1941. The dwelling is listed in excellent condition and with executive construction quality (Grade 1+00). The site is 0.695-acres.

The property's January 1, 2015, assessment was \$636,300, allocated as \$64,400 in land value and \$571,900 to improvement value. Zylstra's protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property under section 441.37(1)(a)(1)(a).

The Board of Review denied the petition.

Zylstra reasserted his claim to this Board and believes the subject property's assessment should be \$410,350. He purchased the property for \$660,000 in 2013.

Findings of Fact

On his appeal to PAAB, Zylstra contends his property his assessed at a higher rate than neighborhood comparables, several of which were built by the same builder around the same time. The property record card indicates the subject's construction quality grade was changed in 2013 to reflect an extensive remodel throughout. Zylstra states that the only evidence of the remodel was the realtor listing and that no permits were pulled for a remodel since 1999. It is unclear whether Zylstra is attempting to imply that the remodeling did not occur. Because we have no evidence to the contrary, we assume the property record card to be accurate.

Along with modifying the property's quality grade, the subject's assessment increased from \$411,878 in 2012 to \$555,357 in 2013. The current assessment is roughly \$24,000 less than the April 2013 purchase price. Zylstra now seeks an assessment roughly \$250,000 less than his purchase price.

Zylstra identified five, two-story dwellings built between 1938 and 1945 for equity comparison. The following chart summarizes the property information.

Address	TSFLA	Garage	Base/Fin	2015 AV	AV PSF
Subject	3145	676	844	\$636,300	\$202.32
2223 Linden	3223	468	495	\$300,200	\$ 93.14
2184 Linden	3294	657	500	\$447,700	\$135.91
314 Crescent	3294	420	400	\$385,300	\$116.97
305 Crescent	3416	400	841	\$404,278	\$118.35
221 Forest	4492	908	1022	\$448,300	\$ 99.80

The Board of Review summary sheet reports the main reason the subject property has a higher assessment than the comparable properties Zylstra identified is that it is a superior grade and/or condition to all of comparable properties. Because Zylstra made no attempt to contradict the Board of Review's statement and we were not provided grade and condition information on the compared properties, we assume the Board of Review's statement to be true. We note that the subject property has superior quality construction (Grade1+00) and excellent condition. Assessed values increase with higher quality building construction and condition.

The Board of Review also identified five, two-story dwellings built between 1918 and 1938 for equity comparison. We note these dwellings have construction quality grades similar to the subject property. Likewise, the assessed values and per-square-foot assessments are similar as well. The median assessment is \$482,600, or \$131.93 per-square-foot. All of the assessments were lower than Zylstra’s assessment on a per-square-foot basis. However, all of the properties are larger than the subject. All else being equal, larger properties tend to have a lower assessed value per-square-foot compared to smaller properties.

Address	TSFLA	Grade	Garage	Base/Fin	2015 AV	AV PSF
Subject	3145	1+00	676	844	\$636,300	\$202.32
2171 Linden	3932	1+10	845		\$648,100	\$164.83
2191 Blake Blvd SE	5208	2+10			\$728,100	\$139.80
2435 Grand Ave SE	3658	1+10	440		\$482,600	\$131.93
305 Crescent	3416	1-05	400	841	\$404,278	\$118.35
2037 Linden	3534	1-05	572		\$405,100	\$114.63

The Board of Review adjusted values for these properties to account for difference between them and the subject property. The adjusted values were close to the subject property’s assessment.

Additionally, the Board of Review provided information on five sales. The sale prices (\$329,000 to \$525,000) and assessments (\$286,400 to \$444,200) were significantly less than the subject property. The Board of Review adjusted the sales for differences with the subject and the adjusted value of the 2014 – 2015 sales (#1 - 4) ranged from \$644,618 to \$691,990. We note that most of the properties are all high quality construction (Grades 2-10 to 2+05), which are slightly inferior to the subject property’s superior quality (Grade1+00) and therefore, lessen their comparability.

An assessment/sales ratio typically compares prior year’s sales (in this case, 2014) to a current year assessment (2015). The assessment/sales ratios for these properties range from 87.1% to 98% with a median of 91.6%. Although somewhat dated, using the subject’s 2013 sale price shows an assessment/sales ratio of 96% and within the range. Without a more recent fair market value for the subject property, such as an appraisal, comprehensive market analysis, or adjusted comparable sales, we are

unable to properly calculate the assessment/sales ratio for Zylstra's property to complete an equity analysis.

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.

Zylstra did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Instead, Zylstra offered five properties he considered comparable for an equity analysis. However, they were all inferior to his in construction quality and condition. Moreover, they were not recent sales. The assessor also identified five properties for equity analysis, which were more similar to the subject in quality and condition. Zylstra’s assessment fell within the range of those compared properties’ total assessed values. Ultimately, there was no recent evidence of the subject property’s market value, such as an appraisal, comprehensive market analysis, or adjusted comparable sales, to properly calculate an assessment/sales ratio for the Zylstra’s property, which is needed to complete an equity analysis.

In conclusion, the record lacked the evidence necessary to complete an equity analysis per *Maxwell*. Accordingly, we find that Zylstra failed to show his property is inequitably assessed as compared to like properties.

Order

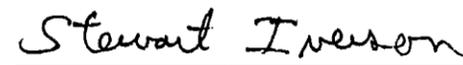
IT IS THEREFORE ORDERED that the City of Cedar Rapids Board of Review's action is affirmed.

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 12th day of January, 2016.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:
David J. Zylstra
Board of Review