

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

PAAB Docket No. 2016-077-00205R

Parcel No. 171/00236-200-026

Bill Bowers, et al.,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2016. Bill Bowers, et al., was self-represented and requested a written consideration of their appeal. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Bill Bowers, along with Carolyn Bowers and Brenda Anders, are the owners of a residential, one-story townhome located at 1031 Eagle Creek Boulevard SW, Altoona. Built in 2014, the property has 1603 square feet of gross living area (GLA), 1152 square feet of living-quarter quality basement finish, a deck, and a three-car attached garage. The site is 0.057 acres. (Certified Record).

The property's January 1, 2016 assessment was \$308,000, allocated as \$50,500 in land value and \$257,500 to improvement value. The property also receives an urban revitalization credit of \$75,000, effectively reducing the assessment to \$233,000. On their protest to the Board of Review, Bowers claimed the assessment was not equitable as compared with assessments of other like property and that the property 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. Bowers then appealed to PAAB stating the subject's correct value is \$294,900.

Applicable 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).

i. Inequity Claim

To prove inequity, a taxpayer may show 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 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. Over Assessment Claim

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

On his petition to the Board of Review, Bill Bowers listed a single equity comparable, 915 Eagle Creek Boulevard SW, which he reported as having an assessment of \$301,400. He also asserted his property had a market value of \$297,000, apparently based on the cost to build/purchase it in February of 2015. (Petition). Bowers did not request a hearing before the Board of Review, and there is no indication he submitted any additional evidence to the Board of Review for consideration.

On his appeal to PAAB, Bowers listed six additional units in his developments as comparables to his property. These properties are summarized in the following table.

Unit #	Assessed Land Value	Assessed Building Value	Total Assessed Value
915	\$50,500	\$250,900	\$301,400
919	\$50,500	\$244,400	\$294,900
1001	\$50,500	\$202,300	\$252,800
1005	\$50,500	\$197,700	\$248,200
1013	\$50,500	\$228,500	\$279,000
1017	\$50,500	\$228,500	\$279,000
Subject	\$50,500	\$257,500	\$308,000

Bowers asserts these units are identical to his and are located on the east side of Eagle Creek Boulevard SW, like his property. There is no other information about these units in the record, such as the properties' GLA, finished basement area, or garage count, for PAAB to make a determination they are indeed comparable to the subject property. Moreover, there is no indication they sold in 2015 and could be used to develop an assessment/sales ratio analysis under the *Maxwell* test to support a claim the subject property is inequitably assessed. Additionally, if the properties did sell, no adjustments were made to arrive at an opinion of fair market value for the subject property.

Bowers also compares his property to Unit 919, as summarized in the following table. (Appeal to PAAB)

	Unit 919	Subject Unit
Main Living Area	1600	1603
Attached Garage	680	724
Basement Area	1480	1603
Finished Basement	1108	1152
Deck	144	144
Open Porch	48	48
Site Size	2500	2500
Land Assessment	50,500	50,500
Building Assessment	244,400	257,500
Total Assessment	294,900	308,000

Based on this side-by-side comparison, Bowers asserts his property should be assessed at \$294,900. Facially, these properties appear very similar. However, there may be features that Bowers' property possesses the property at 919 Eagle Creek Boulevard does not, which would account for the difference in value.

Lastly, Bowers asserts eight units located on the west side of Eagle Creek Boulevard SW all have assessments lower than his, ranging from \$293,900 to \$304,200. (Appeal to PAAB). Again, we have no information on these units to be able to compare them to Bowers' property.

The Board of Review did not submit any evidence.

Analysis & Conclusion

There is scant evidence in the record for PAAB to determine if the subject property has been inequitably assessed or over assessed. Without additional information about the properties Bowers has identified, PAAB is unable to understand or explain without speculation why the subject property is assessed higher than the other properties in the development.

Bowers submitted the assessments of six units located on the east side of Eagle Creek Boulevard SW, and compared one of those units directly to their property. However, there is no indication in the record any of these properties have recently sold, which is necessary information to develop the *Maxwell* test. Additionally, Bowers failed to show the Assessor's Office had applied any assessing method in a non-uniform manner.

Further, no evidence was submitted of the subject's fair market value as of January 1, 2016, such as adjusted comparable properties, an appraisal or a cost analysis.

For the aforementioned reasons, we find Bowers et al. failed to show the subject property is inequitably assessed or over assessed.

Order

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

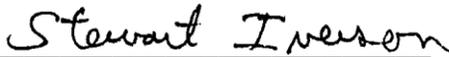
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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 25th day of January, 2017.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

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