

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

PAAB Docket No. 2016-101-00139R

Parcel No. 11271-53003-00000

Lisa Klunder,  
Appellant,

v.

City of Cedar Rapids Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 20, 2016. Lisa and Allyn Klunder are the title holders to the subject property. Lisa Klunder appealed the assessment and was self-represented. City of Cedar Rapids Deputy Assessor Julie Carson represented the Board of Review.

The Klunders are the owners of a residential, one-story home located at 904 Palmyra Drive NE, Cedar Rapids. Built in 2011, it has 1670 square feet of above-grade finish and 925 square feet of living-quarter quality basement finish. It also has a three-car attached garage, a deck, and a patio. The site is 0.296 acres. (Ex. N).

The property's January 1, 2016 assessment was \$299,600, allocated as \$52,000 in land value and \$247,600 in improvement value. This was a change from the 2015 assessment. On her protest to the Board of Review, Klunder claimed the assessment was not equitable as compared with assessments of other like property, was assessed for more than 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. Klunder then appealed to PAAB, re-asserting her claims of inequity and over assessment.

## 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.* 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. Inequity Claim

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. 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**

Lisa Klunder testified that her property backs up to a busy road, which decreases her privacy, and therefore reduces the property’s value. She asserts properties not located on Palmyra Drive and backing to the busy road are not comparable to her property.

Klunder submitted nine properties, with one-story homes like the subject property, located on her street that she believes demonstrate her property is not equitably assessed and is over assessed. (Ex 2). The following table summarizes these properties.

Comparable	Main Level Finish	Basement Finish	Total Finished Area	2016 Assessed Value	AV/Main Level
Subject	1670	925	2595	\$299,600	\$179.40
1 - 810 Palmyra Dr NE	1673	1127	2800	\$303,300	\$181.29
2 - 913 Palmyra Dr NE	1751	1190	2941	\$304,600	\$173.96
3 - 907 Palmyra Dr NE	1653	1250	2903	\$280,100	\$169.45
4 - 908 Palmyra Dr NE	1636	1320	2956	\$273,100	\$166.93
5 - 901 Palmyra Dr NE	1723	1235	2958	\$305,000	\$177.02
6 - 900 Palmyra Dr NE	1752	1256	3008	\$321,400	\$183.45
7 - 912 Palmyra Dr NE	1744	1295	3039	\$302,900	\$173.68
8 - 920 Palmyra Dr NE	1636	1100	2736	\$264,700	\$161.80
9 - 831 Palmyra Dr NE	1712	1125	2837	\$305,200	\$178.27

Klunder asserts the correct assessment for her property is \$290,904, if the average assessed value per-square-foot of main level finish for the nine properties is applied to their 1670 square foot of main level finish. However, this simple calculation does not take into consideration other variables between these properties and the subject property.

Further, we find no evidence in the record any of these properties recently sold. Therefore, we cannot complete a *Maxwell* assessment/sales ratio analysis regarding their inequity claim.

Klunder also submitted two sales (Ex. 3), which are summarized in the following table.

Address	Main Level Finish	Basement Finish	Total Finished Area	2016 Assessed Value	Sale Price	Sale Date
810 Palmyra Dr NE	1673	1127	2800	\$303,300	\$292,500	Apr-16
806 Amelia	1690	890	2580	\$291,900	\$253,000	Oct-15

Only the property at 806 Amelia is usable for a January 1, 2015, inequity analysis, because the other property did not sell until 2016. Applying the *Maxwell* test (assessed value divided by the sales price) results in a ratio of 1.15. This indicates the Amelia property is over assessed. However, more than one property is required to support a claim of inequity under the *Maxwell* test.

As the two sales relate to her over assessment claim, Klunder did not make adjustments for differences between them and the subject property, which is necessary to arrive at an opinion of value.

Deputy Assessor Julie Carson testified for the Board of Review. She explained the sale located at 810 Palmyra Drive NE was not used by the Assessor's Office to establish values for the 2016 assessment because it occurred after the January 1, 2016 assessment date. She also testified that the property located at 806 Amelia was considered in the Assessor's 2016 analysis. She concedes this property is similar to the subject in size and other amenities. However, she asserts it has lower quality finish throughout when compared to the subject.

PAAB questioned Carson about the subject property's location backing to a busy road. Carson acknowledged the road is busy but testified there is no market evidence to suggest it adversely affects the assessment or market value of the subject property. She further commented that the Assessor's Office and Board of Review considered properties in its analysis that have the same influence.

The Board of Review submitted five equity comparables for consideration. (Exs. C-F). There is no evidence any of the properties have recently sold, so no assessment/ratio analysis could be developed.

The Board of Review also submitted five sales it adjusted for differences to arrive at a conclusion of market value as of January 1, 2016. (Exs. H-K). After adjustments, the sales indicate market values between \$307,740 and \$320,180; with a median adjusted sale price of roughly \$310,500. (Ex. I). Sale 5 located at 822 Palmyra Drive NE is located two houses away from the subject and also backs to the same busy road. (Exs. J-K). After adjustments it has an indicated value of \$309,120, which is similar to the median of all the sales and higher than the assessed value of the subject property.

## Analysis & Conclusion

Klunder asserts her property is both inequitably assessed and over assessed.

Klunder submitted several properties for comparison. However, her analysis on a square foot basis is not a recognized method of showing inequity or over assessment.

Only one of Klunder's market comparables sold in 2015, and while it does appear to be over assessed, no similar conclusion can be made for Klunder's property because differences in the properties do exist and it was not used to establish a market value for the subject. Likewise, she submitted no appraisal or cost analysis to demonstrate the property's market value. Moreover, this sale alone cannot establish inequity; the plain language of section 441.37(1)(a)(1)(a) indicates that more than one property is required to support an equity claim. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996). Finally, Klunder failed to show the Assessor's Office had applied any assessing method in a non-uniform manner.

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

## Order

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

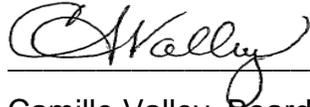
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will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



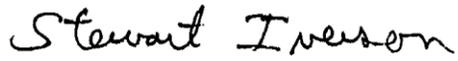
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Karen Oberman, Presiding Officer



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Camille Valley, Board Member



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Stewart Iverson, Board Chair

Copies to:

Lisa Klunder by eFile

Beth Weeks by eFile