

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

PAAB Docket No. 2016-025-00121R

Parcel No. 12-23-251-007

Jon Schultz,
Appellant,

v.

Dallas County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 29, 2016. Jon Schultz was self-represented and requested a written consideration of his appeal. Dallas County Assessor Steve Helm represented the Board of Review.

Jon and Leslie Schultz are the owners of a residential, one-story home located at 4226 161st Street, Urbandale. Built in 2004, the property has 2353 square feet of gross living area (GLA), a walk-out basement with 1830 square feet of living-quarter quality finish, a deck, and a three-car attached garage. The site is 0.28 acres. (Ex. A).

The property's January 1, 2016 assessment was \$454,950, allocated as \$85,000 in land value and \$369,950 to improvement value. This was a change from the previous assessment. On his protest to the Board of Review, Schultz claimed the property's 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. Schultz then appealed to PAAB stating the subject's correct value is \$445,470.

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 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

Shultz asserts homes in his area show a significant decrease in sales prices as compared to their assessments. (Appeal). In Schultz’ opinion, there have also been a number of homes in his area for sale in excess of nine months. For this reason, he asserts his assessment should remain unchanged from 2015.

To support this contention, Shultz submitted a list of three properties to the Board of Review on his Petition. (Petition to Board of Review). The following table is a summary of the information.

Address	Assessment	Sale Price
16002 Aurora Ave	\$419,540	\$410,000
16106 Tanglewood Dr	\$438,110	\$369,000
4216 159th St	\$367,230	\$363,000

Schultz explained he was unable to attend the Board of Review hearing due to a work conflict; this may explain why additional information was not submitted to the Board of Review to support his Petition. He also did not supplement his appeal to PAAB with any additional evidence regarding these properties.

While Schultz reports the properties have all sold, PAAB has no information on when the sales occurred or if the sales were normal transactions. Abnormal sales conditions, such as foreclosure, may impact a sale price. Moreover, there is no information about the physical characteristics of the three properties for PAAB to determine if they are comparable to the subject property or would require adjustments for differences.

Analysis & Conclusion

There is insufficient 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 Schultz identified, PAAB is unable to determine, without significant speculation, why the subject property's assessment is higher than the other properties or their sales prices.

While Schultz provides sales prices of his comparables, he did not submit any other information regarding these transactions. For example, 2015 sales prices are necessary information to develop the *Maxwell* test on a January 1, 2016, assessed value.

Additionally, Schultz failed to show the Assessor's Office had applied any assessing method in a non-uniform manner.

Finally, 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.

Order

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

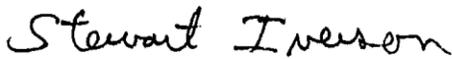
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will 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 2nd day of February, 2017.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

Jon Schultz by eFile

Steve Helm by eFile