

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

PAAB Docket No. 2016-057-00248R

Parcel No. 10331-03003-00000

Kim and Kevin Waltons,  
Appellants,

v.

Linn County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 29, 2016. Kim and Kevin Walton requested a written consideration and were self-represented. Linn County Assessor Julie Kester represented the Board of Review.

The Waltons own a residential, one-story home located at 2660 Burns Drive, Marion. Built in 2006, it has 1805 square feet of above-grade finish and 855 square feet of living-quarters quality basement finish. It also has an over-sized two-car attached garage, deck, and a shed. The site is 0.46 acres. (Ex. A & B).

The property's January 1, 2016 assessment was \$269,200, allocated as \$49,900 in land value and \$219,300 in improvement value. This was a change from the previous assessment. On their protest to the Board of Review, the Waltons 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 Waltons then appealed to PAAB, asserting the subject's correct assessment is \$263,300.

## 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).

## Findings of Fact

The Waltons assert the increase of \$8100 in the value of their land from the previous assessment is excessive. (Appeal). They rely on five nearby properties summarized in the following table.

Address	Site Size	2016 Assessed Land Value
2660 Burns Dr (Subject)	0.455	\$49,900
4390 Snowgoose Dr	0.482	\$43,500
4395 Pintail Dr	0.458	\$44,000
2665 Burns Dr	0.374	\$43,000
2700 Burns Dr	0.322	\$40,400
2680 Burns Dr	0.548	\$49,000

The Waltons point out that 4390 Snowgoose Drive, 4395 Pintail Drive, and 2680 Burns Drive have larger sites than theirs, yet the assessed values are lower. The site sizes of 2665 Burns Drive and 2700 Burns Drive are only slightly smaller than their site, but have significantly lower site values. Based on these assessments, they want their land assessment lowered to \$44,000.

The Board of Review submitted evidence supporting its decision to affirm the assessment. Note for the 2016 assessment year, the Assessor's Office corrected the lot size of the Walton's parcel and removed an excess frontage adjustment that had been applied in error. (Ex. G). The Board of Review also submitted a spreadsheet of the subject property, Walton's comparables and its own additional comparables in an effort to clearly show how differences in the size, shape, and frontage of a site affect its assessed value. (Ex. G). The following table is a summary of Walton's comparables.

Address	Front Foot	Depth Factor	Effective Front Foot	Site Size	Other Adjustment	2015 Assessed Land Value	2016 Assessed Land Value
2660 Burns Dr (Subject)	65	1.09	110.82	0.455	0.00	\$41,800	\$49,900
2665 Burns Dr	138	0.99	136.62	0.374	0.30	\$39,000	\$43,000
2700 Burns Dr	65	1.07	89.88	0.322	0.00	\$40,700	\$40,400
2680 Burns Dr	65	1.17	108.81	0.548	0.00	\$41,600	\$49,000
4390 Snowgoose Dr	127.65	1.16	128.88	0.482	0.25	\$43,500	\$43,500
4395 Pintail Dr	100	1.15	115.00	0.458	0.15	\$44,000	\$44,000

4390 Snowgoose Drive and 4395 Pintail Drive are not located in the same neighborhood as the subject. (Ex. G). As a result, we do not find them similarly situated comparables for use when evaluating the subject's land value. We give them no consideration.

While 2665 Burns Drive is located across the street from the subject, it is a corner lot with a minimal backyard. Because of its shape, the property has a larger than normal amount of sidewalk requiring increased maintenance and most of the useable yard is situated to the sides of the home. Recognizing this, the Assessor applied a 30% adjustment for excess frontage and shape. (Ex. G). We also note a property at 5890 Robinwood Lane that was not considered by the Waltons is a similarly shaped corner lot and it has a 20% adjustment applied for its excess frontage. (Ex. G). For these reasons, we find 2665 Burns Drive may be viewed in the marketplace as less valuable than the subject and give it no consideration.

The two remaining comparables (2680 and 2700 Burns Drive) are most similar to the subject. 2700 Burns Drive is a smaller site with less backyard area than the subject. 2680 Burns Drive is a larger site with excess backyard area when compared to the subject. We find this property's site to be most similar to the subject's and their site assessments are roughly equivalent.

### **Conclusions of Law**

On appeal to PAAB, the Waltons assert their assessment is not equitable as compared with assessments of other like property and their property is assessed for

more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). Their arguments focus on the subject's land value. They also believe their site value has increased at a greater rate than similar neighboring sites. In general, simply asserting other nearby properties' assessments did not increase at the same rate as their assessment is a mislaid argument. In nearly all cases, comparing the rate of increase between assessments does not, by itself, demonstrate the subject property is inequitably assessed or over assessed.

Moreover, the Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956). See also *White v. Bd. of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). As a result, our end focus when evaluating the Waltons' claims is on the subject's total value.

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.

The law does not require absolute equality in property assessment. *Crary v. Bd. of Review of Boone*, 286 N.W. 428 (Iowa 1939) (quoting *Butler v. City of Des Moines*, 258 N.W. 755, 758 (Iowa 1935)). Rather, approximate uniformity and reasonable equality of assessment has been found to be sufficient. *Crary*, 286 N.W. at 430; *Maxwell*, 133 N.W.2d at 712.

The Waltons have not submitted any evidence supporting a claim under the *Maxwell* test. Further, we find the evidence shows the Assessor applied a uniform assessing method that resulted in reasonably equitable land values.

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).

The Waltons have not presented any evidence demonstrating the assessment of their property, site and improvements included, is in excess of market value, such as an appraisal, comparable sales adjusted for differences, or a cost analysis.

For the above stated reasons, we find the Waltons failed to show their property is inequitably assessed or over assessed.

## **Order**

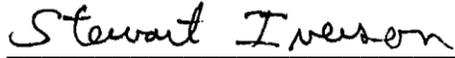
IT IS THEREFORE ORDERED that the Linn County Board of Review's action is affirmed.

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.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

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Julie Kester by Efile