

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

PAAB Docket No. 2016-052-00043R

Parcel No. 0715481010

Jamie Jean Zearley,

Appellants,

vs.

Johnson County Board of Review,

Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 29, 2016. Jamie Jean Zearley is self-represented and requested a written consideration of her appeal. Johnson County Attorney Andrew Chappell represented the Johnson County Board of Review.

Zearley owns a residential, one-story home located at 2778 Tower Site Drive NE, Solon. Built in 1991, the property has 1580 square-feet of gross living area (GLA); 790 square feet of basement finish; a deck, patio/porch area; and a three-car attached garage. It also has an additional detached, 720 square-foot garage that was built in 2004. The site is 0.95 acres. (Petition).

The property's January 1, 2016 assessment was \$280,700, allocated as \$48,900 in land value and \$231,800 to improvement value. This was a change from the previous assessment. Zearley's protest to the Board of Review claimed the property was not equitably assessed as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition.

Zearley reasserts her claim to PAAB and contends the subject property's correct assessed value is \$242,000. (Appeal to PAAB).

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).

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.

Findings of Fact

In her Appeal, Zearley states she purchased her home less than three years ago for \$246,000. She believes the 14% increase between the sales price and current assessment is too aggressive for the area and not supported by nearby sales. In support of her claim, Zearley submitted two properties she believes are comparable to hers. (Exs. 1-2). The properties are summarized in the following table.

Address	Year Built	Gross Living Area (GLA)	Basement Finish	Site Size	2016 Assessment	Sale Price	Sale Date
Subject	1991	1580	790	0.95	\$280,700	N/A	N/A
2794 Tower Site Dr NE	1994	2031	975	0.62	\$262,600	\$242,000	Jan-16
2769 Anchorage Rd NE	1994	1157	768	0.52	\$205,800	\$225,000	Feb-16

Both comparable properties are described as one-story homes; however, the sketch and photos in the property record for 2794 Tower Site Drive NE suggests it is a one-and-a-half-story. (Ex. 2). This property also has a three-car, attached garage like the subject, whereas 2769 Anchorage Road NE only has a two-car, attached garage. Neither of the comparable properties have an additional detached garage like the subject. Moreover, both comparables have smaller sites. Although, the properties are

generally comparable in terms of style, age, and appeal, the differences in the garage count and site sizes would result in differences in the assessed values.

Zearley did not submit any evidence to suggest the assessor had applied an assessing method in a non-uniform manner.

Analysis & Conclusion

Zearley asserts her two comparables demonstrate her property is inequitably assessed. We note neither of the comparable properties have a large detached garage like the subject. There are other differences as well, which may contribute to variances in the assessed values, such as site size.

Even if we concluded the two properties are reasonable comparables to the subject property for an equity analysis, the *Maxwell* test typically compares a 2015 sale price or market value of a property to its 2016 assessment to calculate an assessment/sales ratio. Both of Zearley's comparables sold in early 2016. Nevertheless, even if PAAB reasonably assumes the early-2016 sales prices represent the 2015 market value of the properties, the resulting assessment/sales ratio analysis does little to support Zearley's claim. The ratio of the two properties is 1.09 and 0.91. A ratio over 1.00 suggests a property is over assessed, whereas a ratio less than 1.00 suggests a property is under assessed. One property appears to be assessed higher than its market value by 9% and the other property indicates it is assessed less than its market value by 9%. On average, the comparable properties suggest the assessments are at their market values with a ratio of 1.00.

As previously noted, Zearley failed to show the Assessor's Office had applied any assessing method in a non-uniform manner.

For these reasons, we find Zearley failed to show the subject property is inequitably assessed.

Order

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

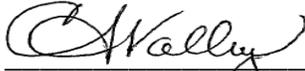
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will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

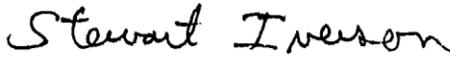
Dated this 30th day of January, 2017.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

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