

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

PAAB Docket No. 2017-077-00508R

Parcel No. 090/04386-000-000

James L. & Margaret A. Clark,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 2, 2018. James and Margaret Clark were self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

The James A and Margaret A Clark Trust owns a residential property located at 412 SW 42nd Street, Des Moines. The property's January 1, 2017 assessment was \$239,800, allocated as \$71,300 in land value and \$168,500 to building value. (Ex. A).

The Clarks petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property and that there was an error in the assessment under Iowa Code section 441.37(1)(a)(1)(a & d). The Board of Review modified the assessment to \$239,200, by lowering the land value to \$64,800 and increasing the building value to \$174,400. The Clarks reasserted their claims to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). 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).

Findings of Fact

The subject property is a brick, one-story home built in 1953 with 1302 square feet of gross living area. It has a 651-square-foot, unfinished basement with a walkout entrance; a deck; patios; and an attached two-car garage. The property also has a 400-square-foot garage addition built in 2009, which has a full unfinished basement with outside access only. The improvements are listed in normal condition with a good-quality grade rating of 3-10. The site is 0.376 acres. (Ex. A).

Margaret testified regarding several concerns the Clarks have with their property and its assessment. Their concerns include an alleged structural problem with the roofline, which occurred as a result of a construction error with the 2009 garage addition; the property's topography; and the property's walkout feature.

Assessment History

The Clarks provided a 2017 protest and appeal history of their property. Prior to filing a petition with the Board of Review, Margaret explained they requested an informal review. They spoke with Brett Tierney, a residential appraiser with the Polk County Assessor's Office. The Clarks requested the review to address concerns they had with their roof that they did not believe had been taken into consideration in their 2017 assessment. Tierney recommended they file a petition with the Board of Review.

The Clarks submitted several iterations of the subject's cost sheet. (Exs. 8K-M). The cost sheets appear to indicate that the grade was changed on the property from 3-05 to 3-10 in 2017. At the time of the Board of Review hearing, Tierney's Review Appraiser Analysis indicated the subject property had been listed with a 3-05 grade rating. (Ex. C). The property record card showing the Board of Review's action indicates the property is now assessed with a 3-10 grade. (Ex. A). This change would have resulted in a decrease in the assessed value. The Clarks were particularly concerned about why the grade has changed on their property, noting that from 2001 to 2007 the grade was 4+10. (Ex. 8E-8H).

The Clarks called Tierney to testify regarding his recommendations to the Board of Review. Tierney's recommendation was to increase the subject property's assessment from \$239,800 to \$253,700 to reflect a wood deck and landscaping that was added after the 2016 assessment. He also noted the Clarks had reported a structural problem in the roofline and submitted photos. For this reason, he was willing to inspect the home to determine what effect the roof issue may have on the value of their property, presuming the possibility of water damage to the interior of the home or attic. (Ex. C). In response to this comment, Margaret testified that they "never once said there was water in the attic."

Margaret asserts Tierney applied a reduction to their 2009 assessment for structural issues based on photos without personally inspecting the property. (Exs. 16L-16M). She then questioned why Tierney was not willing to apply a reduction without visiting the property in 2017 based on the same type of documentary information; this time an engineer's report,. (Ex. 8O). Tierney explained he was unclear what the Clarks' concerns were with the roof at the time the 2017 petition was filed. He testified that he called and believes he left a message with the Clarks, which they dispute.

Although the Board of Review declined to increase the subject property's assessment as Tierney recommended, it removed an adjustment to the subject's land for its walkout site, lowering the assessed land value to \$64,800. It did not, however, remove the basement walkout adjustment applied to the improvements, which totals \$4356. (Ex. B). In a review of the cost report generated before and after the Board of

Review hearing, other changes included an increase of the patio size by five square feet and adding 341 square feet of wood deck. (Exs. 8K & B). After depreciation, these changes increased the building value by \$5913. The combined changes to the land and building values resulted in a net decrease of \$600 to the subject's assessment.

Roof Construction Concerns

Margaret testified that when the garage addition was built, the roof between the house and garage was constructed so it does not drain directly into a gutter but instead water flows into a valley coming down from the peak of the garage roof. She believes this will ultimately cause water damage. The Clarks submitted photos they believe demonstrate their roof problem. (Exs. 8N; 21A-C). In their opinion, it was not necessary for the Assessor's Office to inspect the subject property's interior because they believe the problem is "very obvious" from the exterior of their home.

The Clarks also submitted a one-page schematic report from Tometich Engineering, Inc., that proposes over-framing a portion of the roof. (Ex. 8O). Because of the age of the existing roof and the need to build an over-frame, the Clarks believe the only practical solution is to replace the entire roof. The Clarks sought bids from several roofing companies to remove and replace the existing wood-shake shingles, over-frame the roof consistent with the engineering plan, and replace the gutters. (Exs. 8P-8T). Only two bids were returned at \$31,900 and \$58,200. (Ex. 8S-8T). Both of these bids call for replacing the existing wood-shake shingles with new cedar shingles rather than less expensive composition shingles because this is what the Clarks requested.

When questioned if the subject property has suffered any damage as a result of the roof's existing design, Margaret explained there has been no water intrusion or other damage. But she believes there is a structural defect that must be disclosed if they ever want to sell their property; regardless of whether it has resulted in damage. (Exs. 17A-17B). In her opinion, the existence of a potential roof drainage issue has greatly diminished the value of their property.

Hueneke and Loll Appraisals

The record includes two exterior-only appraisals valuing the subject property by the sales comparison approach as of January 1, 2017. The Clarks submitted an

appraisal completed by Duane Hueneke, Williams Appraisal, LLC, valuing the subject property at \$215,000. (Ex. 20). The Board of Review submitted an appraisal completed by Dennis Loll, Des Moines Real Estate Services, valuing the subject property at \$245,000. (Ex. D). Both appraisers are qualified to appraise the property and testified at hearing.

Hueneke and Loll relied on many of the same comparable properties but applied different adjustments. A primary distinction between the two appraisers is their determination of the subject property's condition.

Hueneke testified when the Clarks hired him, they gave him the engineer's report for the subject's roof. The Clarks also told him there has been limited updating to the property and supplied him with 2009 exterior photos, which he presumed reflected the same condition as of January 1, 2017. (Exs. 16A-16-M; Ex. 20, p. 6). Based on this information, Hueneke assumed the roof required repair and there were other deferred maintenance items impacting the property. For these reasons, although he found the subject property to be of above-average quality, he considered the condition to be less than average. (Ex. 20, p. 6-7). Based on this belief, he adjusted every comparable property downward by \$7500 to \$40,000. At hearing, however, he acknowledged he did not know if the roof actually required immediate repair. He also testified it was his opinion the wood-shake roof is a super adequacy.

Like Hueneke, Loll determined the quality of the subject property to be above average. He based this opinion on its all brick/stone exterior, a hip roof with wood-shake shingle, and good quality landscaping. Loll relied on the Assessor's Records and his exterior observations of the subject property and concluded it was in average condition. (Ex. D, Addendum). Loll considered two comparable properties (Sales 1 and 4) similar to the subject's condition and therefore did not require any adjustment for this element of comparison. He identified three comparable properties (Sales 2, 3, and 4) as superior in condition and adjusted them downward by \$10,000 to \$20,000.

Clark explained she specifically requested Hueneke complete an exterior-only appraisal because she was aware that was the type of assignment Loll completed. She did not believe it would be reasonable to allow Hueneke to inspect the interior when Loll

did not have that same opportunity. Despite this admission, the Clarks did provide Hueneke their description/opinion of the interior condition of the subject property, as well as additional documents such as photos, the engineer report, and their own personal analysis such as color-coded parcel maps.

Loll testified he was not provided with any such information by the Clarks or the Board of Review prior to the completion of his appraisal report. After he completed the report he was made aware there may be an issue with the roof. When provided with the engineer report, estimates to repair/replace the roof, and some photographs, Loll testified he still did not believe the subject property's roof required immediate repair or replacement or was in less than average condition. He explained his opinion has not changed because he has questions that remain unanswered; and to his knowledge there have been no issues, such as a leaking, as a result of the existing roof architecture. In his experience, he has seen other home additions that have less than ideal roof line integration. Only when actual problems arise, however, does an owner take corrective action.

Loll testified that in his search for comparable properties he considered the unique qualities of the subject property such as its all brick exterior, its floorplan with only two bedrooms, its location on SW 42nd Street, and its topography. He located two comparable properties (Sales 2 and 4) on the same side of SW 42nd Street that have similar topography as the subject property.

Clark was critical of Loll for using the Glenview Drive and River Oaks Drive properties (Sales 3 and 5) without adjustments for a superior location. Hueneke also relied on these sales but applied a net downward adjustment of \$5500 to \$7500; or 2-3% for location/site size. In Loll's opinion, the Glenview and River Oaks Drive sales did not require a location adjustment. Even if a downward 3% adjustment, or roughly \$8000, were applied to Loll's analysis of these sales, the adjusted values would be \$240,000 and \$250,500 respectively, which still supports his conclusion of value of \$245,000. Both appraisers noted these properties are brick homes like the subject property.

Three of Loll's comparable properties (Sales 1, 2, and 4) are located on SW 42nd Street, but he noted they are frame homes that would have less appeal compared to the subject which has a full brick exterior. These properties sold between September 2015 and March 2017, with sales prices from \$197,000 to \$252,500; the high end of the range is set by the sale that occurred the most proximate to January 1, 2017. The adjusted median of these three sales is \$232,000 and the average is \$238,400. After adjusting these properties for differences compared to the subject property, they indicate a market value of \$223,500 to \$259,500. The pre- and post-adjusted sale prices bracket the subject property's 2017 assessed value. While both Hueneke and Loll are qualified to appraise the property, we find Loll more knowledgeable and persuasive, and find his conclusions to be the most credible determination of the subject's market value as of January 1, 2017.

Neighborhood

Clark testified about the subject neighborhood, its traffic patterns, and assessed values. The subject property is located on SW 42nd Street, which Clark identified as a feeder street to the neighborhood. The neighborhood is made up of pocket areas referred to as Linden Heights, Salisbury Oaks, and Greenwood. (Ex. 8U). While there are other entrances to the area, the referenced map clearly demonstrates that SW 42nd Street would likely experience the most traffic given it provides the most direct route to many of the interior neighborhood streets. Clark reported that many properties on SW 42nd only have one-car garages in an age where most households have two cars, which results in more on-street parking. (Exs. 8X-8Y). The street is also highly used for bicycle and pedestrian traffic. (Exs. 8Z-8Z1). All of these factors contribute to traffic congestion issues, prompting action by the Des Moines Traffic Safety Committee in 2017. (Exs. 8V-8W). Clark reported that in lieu of installing sidewalks, the Committee opted to implement no-parking areas along SW 42nd Street to help alleviate some of the congestion.

Clark recognizes that their property is located in an area of Des Moines known as "South of Grand," which carries a certain level of local cachet. However, in her opinion, there are more prestigious micro-neighborhoods within the South of Grand area, and

the subject property is not within those more desired areas. The Clarks submitted a map they color coded to demonstrate the wide range of values of properties and their locations within the South of Grand neighborhood. (Ex. 12C).

The majority of properties along SW 42nd Street have assessed values less than \$299,000, whereas a majority of properties located one block to the west or east, and those on 42nd Street south of Muskogee Avenue have assessments greater than \$300,000. Clark also noted many of the properties on Lincoln Place have values less than \$199,000; she believes this is an important distinction because Loll relied on a sale located on the corner of this street with a River Oaks Drive address but did not adjust it for location.

The Clarks also assert their site has a higher unit land value per square foot than other larger, more appealing sites in the immediate area as well as having the same cost multiplier of 1.250. (Exs. 8K, 12B, 13K). In Margaret's opinion, this is inequitable.

Land Value (Topography/Walkout adjustments)

The Clarks also believe the topography of their site should have a greater adjustment in the assessment. Margaret explained the subject site slopes to the rear, requiring their home to be situated closer to the street. Comparatively, she asserts other neighboring properties do not have sloping topography and their improvements were built in the middle, or towards the rear of their site allowing them to be further away from the influence of the street. (Ex. 8Z2). Clark testified that she believes her backyard has a total drop of roughly 25 feet from the rear of her house to the rear of the lot, which she estimated to be roughly 100 feet. However, the Clarks did not submit any photos or evidence to substantiate her estimates that their backyard suffers from severe topography that renders it unusable or undesirable. Additionally, we note that aerial photos in the record do not support her contention that improvements on other properties in her immediate area (on the west side of SW 42nd Street and immediately south and to the north of the subject property) are situated any differently on their lots. (Ex. 3I).

Hueneke testified he did not view the backyard, as he was instructed to only view the subject property from the street and therefore could not offer an opinion regarding

the topography. Loll testified that he also viewed the subject property from the street, but was able to adequately view the backyard. In his opinion, while it is sloped, the topography allows for a walkout lot, which is considered desirable by many market participants. Additionally, he stated that although the subject's sloping backyard may offer less utility, it creates a more private view which may be appealing to some buyers. As previously noted, he included two sales on the same side of SW 42nd Street, which he reported as having the same topography as the subject site.

The Clarks assert their property is valued for its walkout feature and other similarly-situated properties are not. The Clarks submitted photos and cost reports of several properties in the subject's neighborhood to support this assertion. (Exs. 10B-10T). Using the property located at 4020 River Oaks as an example, the Clarks note it is clear from the picture that this property has a walkout basement, but is not assessed for this feature on either the land or building. (Ex. 10B-10C). Clark, however, also argued the River Oaks properties are not comparable to hers for various reasons.

Tierney acknowledged that based on the photo and cost sheet, 4020 River Oaks has not been assessed for having a walkout feature. He explained the subject property is an older neighborhood and many of the properties in that area were not accurately listed "back in the day." He testified that typically, listing errors would be corrected when discovered, but the timing of these corrections is not up to him.

The Clarks believe their property was assessed twice for their walkout feature, once in the land valuation and again in the improvement valuation. The Board of Review removed the value attributed to their land for this feature.

The Clarks also believe the assessments between sites located on Foster Drive and those located on SW 42nd Street are not reasonable given the differences in site sizes and desirability. Margaret noted that some larger sites on Foster Drive are assessed less on a per-square-foot basis than the subject site. (Ex. 12B). Margaret identified two properties located at 5 Foster Drive and 7 Foster Drive to support her position. (Ex. 12A). In her opinion, both of these sites are more desirable than the subject site because of their location and better topography. Yet both have lower assessed land values of \$3.95 per square foot compared to the subject site's assessed

value of \$4.35 per-square-foot.¹ In Clark’s opinion, valuing the land on a per-square-foot basis is inherently unfair resulting in inequitable assessments. However, we note it is unclear whether the sites are assessed based on a per-square-foot method or a site-value method.

Because they perceive the sites are improperly assessed, the Clarks assert the properties on Foster Drive had skewed assessment/sales ratios compared to properties on SW 42nd Street. (Exs. 18A-18B). In their opinion, these differences are directly reflective of inequities in the site valuation. We are unable to reach that conclusion based on this evidence, but we note the Clarks included four 2016 sales and their 2017 assessed values to establish a sales price ratio for the immediate area. (Exs. 18A-18B). The following table is a summary of those comparable sales.

Address	Sale Date	Sale Price	2017 Assessed Value	Ratio ²
122 Foster Dr	May-16	\$614,000	\$609,400	0.99
105 Foster Dr	Apr-16	\$552,500	\$520,600	0.94
108 SW 42nd St	Jan-16	\$285,000	\$269,500	0.95
409 SW 42nd St	Aug-16	\$197,000	\$190,300	0.97

In addition, our review of the record found the following properties for which an assessment to sales ratio can be calculated.

Address	Sale Date	Sale Price	2017 Assessed Value	Ratio
3700 River Oaks	Aug-16	\$269,500	\$269,200	1.00
227 Glenview Dr	Oct-16	\$271,000	\$245,000	0.90
506 SW 42nd St	Dec-16	\$252,500	\$217,100	0.86

Lastly, Clark also requested PAAB to review documents from prior appeals on different properties they own. (Ex. 9G-9I). Because the documents do not pertain to the

¹ The Clarks’ calculation of \$4.35 per square foot is based on the assessed land value prior to adjustment by the Board of Review. After the Board of Review adjustment, the total land value was \$64,800, or \$3.95 per square foot.

² This ratio is a component of supporting an equity claim based on test articulated in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). A ratio less than 1.00 indicates a property is assessed for less than its market value; whereas a ratio greater than 1.00 would indicate a property is assessed for more than its market value.

subject property or the January 1, 2017 assessment date in question, we decline to give them consideration.

Considering the roof issue and the alleged inequities, the Clarks believe the subject property should be assessed for \$189,000.

Analysis & Conclusions of Law

The Clarks assert there is an error in their property's assessment and that it is inequitably assessed compared with other like properties under Iowa Code section 441.37(1)(a)(1)(a & d). Although there is no presumption the assessed value is correct, the Clarks bear the burden of proving their claims by a preponderance of the evidence. § 441.21(3); *Compiano v. Bd. of Review of Polk County*, 771 N.W.2d 392, 396-97 (Iowa 2009) (citations omitted).

A. Error Claim

The Clarks assert an error in their assessment because of a perceived structural issue in the roof of their home caused by the construction of a 2009 addition. The Clarks acknowledged the Assessor's Office was unaware of the structural issue as of the January 1, 2017 assessment. However, the Clarks believe because the Assessor's Office was subsequently provided with an engineer report detailing a plan to repair/replace their roof to correct the perceived problem, it should then have been obligated to reduce the subject property's assessed value.

The Clarks acknowledged there has been no leaking or other damage caused to the property as a result of the way the roof was constructed. Specifically, Margaret testified that they had "never once said there was water in the attic." Further, we find the engineer's report ambiguous. The report contains no information for us to determine the immediate impact, if any, the current roof may have on the actual market value of the subject property. Because the Clarks admit there has been no damage related to the roof construction, we find the improvements are valued based on their current condition. Therefore, we find no error in the calculation of the subject property's assessed value.

The Clarks also wish to revisit the grade assigned to their property as far back as 2001 when it was listed at a 4+10. They questioned why the grade of a property would

change. For the January 1, 2017 assessment, the Clarks property had been listed with a grade 3-05, but, after the Board of Review decision, the subject's grade was changed to 3-10 resulting in a lower assessed value of the improvements. We do not know the reason the property's grade was changed, but we find the Clarks did not provide sufficient evidence to demonstrate an error in the subject property's 2017 listed grade.

B. Inequity Claim

The Clarks make arguments their property is inequitably assessed under both *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965) and *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860 (Iowa 1993).

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*, 497 N.W.2d at 865. Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell*, 133 N.W.2d 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 its actual value. *Id.* Typically, sales from the prior year is compared to the current assessment to determine an assessment/sales ratio. A ratio less than 1.00 indicates a property is assessed for less than its market value; whereas a ratio greater than 1.00 would indicate a property is assessed for more than its market value.

i. *Maxwell* Analysis

Turning first to *Maxwell*, Clark submitted four 2016 sales, which can be used to develop a *Maxwell* ratio analysis. The sales indicated a ratio range of 0.94 to 0.99. Three sales were also used by both appraisers and their assessments are included in the record, but the Clarks did not include them in their analysis. These sales indicate a ratio range from 0.86 to 1.00. The range indicates that similarly situated properties have been assessed at, or slightly below, their market value. The next step of *Maxwell* is to calculate the assessed value to actual value ratio for the subject property to see if it is equitable compared to the ratios of the comparable properties. The record includes the

Hueneke and Loll appraisals, which value the property at \$215,000 and \$245,000 respectively.

The primary difference in opinions between the two appraisals lies in the condition rating of the subject property. Hueneke concluded the subject property is in less than average condition after an exterior inspection of the property and by relying on the engineer report, the Clarks reporting of a lack of updating, and some exterior photographs from 2009 showing deferred maintenance. Loll relied on the subject's property record card and an exterior inspection of the subject property. Based on his experience, and with no reason to believe otherwise, Loll concluded the subject property was in average condition. Even after learning of the engineer report, Loll is unconvinced the subject property is in less than average condition. In his opinion, the engineer's report corrects an item that may not need correction because there are no known damages caused by the roof construction.

Having heard testimony from both appraisers, we find Loll offered the most credible opinion and therefore conclude the most persuasive evidence of the subject property's January 1, 2017 market value is \$245,000. We believe a structural defect is a factor that may affect market value and should be considered in determining market value. § 441.21(1, 2); *Boekeloo v. Bd. of Review of City of Clinton*, 529 N.W.2d 275, 278 (Iowa 1995) (“[O]ur assessment statute and prior case law require that the assessor consider any factor that may affect market value.”). However, we are not persuaded the Clarks' roof issue is a structural defect that affects its market value to the extent described in Huenke's appraisal. There is no evidence the roof design has resulted in water damage or that damage is likely to occur in the foreseeable future.

Additionally, Huenke did not conduct a complete inspection of the property to confirm its condition. Rather, he assumed issues existed as of January 1, 2017 that affected its overall condition, including needed repair and painting of windows, settlement and cracking of exterior brick, and fascia repair and stoop settlement. (Ex. 20, p. 6). Yet, the photographs in Exhibit 16 indicate some of these issues existed in 2009 and it is not clear to PAAB whether all of the issues continued to exist as of the

assessment date. For example, the photos of cracked exterior bricks and deferred fascia and window maintenance are from 2009.

We believe Huenke's assumptions regarding the property's condition may be inaccurate. The assumptions were based on information he did not confirm and are also not supported by the record in this case. Therefore, we believe his appraisal likely undervalues the subject property.

Using Loll's conclusion of market value, the subject's assessment to actual value ratio is 0.98, which is within the range of the comparable properties Clark identified. It is also within the ratio range of other properties on SW 42nd Street. For this reason, we find the Clarks did not establish inequity by the *Maxwell* test.

ii. *Eagle Food Centers Analysis*

The Clarks also assert the Assessor did not apply an assessing method uniformly to similarly situated or comparable properties as required under *Eagle Food Centers*.

Here the Clarks have multiple complaints including the per-square-foot method to value the subject site is flawed and that the adjustments for a walkout to their improvements has not been applied uniformly to other similarly situated properties.

The Clarks also assert their site is assessed at a higher rate despite being a smaller lot with limited utility due to its topography, and its location on an arterial street. Land and improvements are commonly valued in a manner that recognizes the diminishing utility and value of increasing units of measurement. APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 366, 585 (14th ed. 2013); INT'L ASSOC. OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION 249 (3d. ed. 2010). Therefore, all else being equal, larger sites will have a lower assessed value per unit of measurement than a smaller site. The Clarks' color-coded parcel map demonstrates this concept. Moreover, the Board of Review adjusted the Clarks' land value to \$64,800, which rounds to \$3.95 per-square-foot. According to the Clarks' color-coded map, that is consistent with the per-square-foot land value of the majority of properties located along SW 42nd Street. Therefore, we find no inequity in the subject's land value assessment.

Lastly, the Clarks assert their property has been unfairly overvalued because of walkout adjustments that were applied to the land and to the improvements. The Board of Review acted and removed the walkout adjustment to the subject's land value but did not remove the adjustment to their dwelling.

The Clarks submitted photographs and cost sheets of other properties they contend have walkout basements yet were not assessed for this feature. Tierney acknowledged the comparable properties the Clarks submitted appear to have walkout lower levels but are not assessed for this feature. Tierney testified that he makes corrections to properties that have not been assessed for features they actually possess when he is directed to do so by management.

Upon review of the evidence, we find the appraisals confirm that 506 SW 42nd Street has a walkout basement and the assessment record indicates there is no line-item adjustment for that feature. Exhibit 4 includes a realtor listing confirming that 320 SW 42nd Street is a walkout property and, like the subject, is receiving an adjustment for the feature on its assessment. If nothing else, these properties, along with the subject, show an inconsistent listing and treatment of the walkout basement feature.

Regarding the remaining properties in the record the Clarks provided to support their walkout adjustment claim, we find the aerial photographs are generally inconclusive as to whether the properties have walkout basements. However, at least two of these properties are being valued for a walkout feature: 4100 River Oaks Drive and 4102 River Oaks Drive. (Exs. 10E & 10F). Regarding the other properties Clark submitted, there is no other corroboration that these particular properties have or do not have walkout basements. Accordingly, we give them no consideration. Even if we were to assume some of these properties are walkouts and not assessed for this feature, the general trend in the neighborhood suggests some properties are assessed for the walkout and some are not, indicating the Assessor's Office may need to examine the property listings in this area.

As it is, the properties most comparable to the Clarks are located on the same street. Two of those properties, including the subject, are confirmed to have walkout

basements and are being assessed for that feature. There is one confirmed property on SW 42nd Street that has a walkout basement, but is not being assessed for that feature.

PAAB confronted a similar situation in *Lehman v. Polk County Board of Review*, PAAB Docket No. 2015-077-00771R. In that case, the Assessor's Office applied a positive adjustment to Lehman's land value because the dwelling was situated on a walkout lot. Lehman presented evidence of other properties in her neighborhood and map area that had walkout lots but were not receiving the same adjustment. Importantly, the property record cards for two of Lehman's comparables showed they had walkout basements but were not receiving the same adjustment to their land value. The Board of Review conceded there were likely other properties located in Lehman's neighborhood with walkout basements to which no adjustments were applied. PAAB ultimately concluded that Lehman's property was inequitably assessed because Lehman's amenity was being valued while the same amenities were not being valued in comparable properties. *Lehman v. Polk County Board of Review*, PAAB Docket No. 2015-077-00771R, Amended Findings of Fact, Conclusions of Law, and Order, available at https://paab.iowa.gov/sites/default/files/decisions/2016/lehman_amended_2015-077-00771r.pdf.

Unlike *Lehman*, this record only conclusively demonstrates there is one comparable property on Clark's street that is not receiving an adjustment for its walkout basement. There is another comparable property with a walkout basement on SW 42nd Street that receives the line item walkout adjustment like the subject property. It also appears there are other walkout sites within the South of Grand neighborhood that receive the walkout adjustment, as noted above. However, we do not find these other properties to be sufficiently similar to be comparable to the subject property. So, we find only two comparable properties with walkouts, one that is assessed for the walkout feature and one that is not. An assessment is inequitable only if it stands out above the general level. *Maxwell*, 133 N.W.2d at 712. "It is well established that the showing of only one other comparable property in the area or district is not sufficient to afford

relief.” *Id.* Therefore, we find the Clarks have failed to demonstrate the subject property is inequitably assessed.

While this record is insufficient to grant relief on the Clarks’ inequity claim, the evidence suggests the Assessor’s Office should review the properties located in this neighborhood to ensure they are consistently and correctly listed.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review’s action.

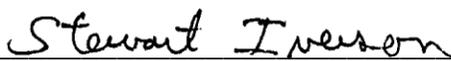
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

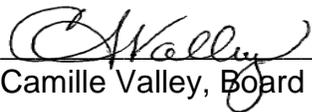
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

Margaret Clark by eFile

Christina Gonzalez for the Polk County Board of Review by eFile