

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

PAAB Docket No. 2018-017-10049R

Parcel No. 06-07-278-001-00

Harvey Kunzman Jr,

Appellant,

vs.

Cerro Gordo County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 11, 2018. Harvey Kunzman Jr. was self-represented. Deputy County Attorney Steve Tynan represented the Cerro Gordo County Board of Review.

Harvey and Nancy Kunzman own a residential property located at 1512 Southfield Place, Clear Lake, Iowa. The subject property's January 1, 2018 assessment was set at \$239,800, allocated as \$45,430 in land value and \$194,370 in dwelling value. (Ex. A).

Harvey Kunzman petitioned the Board of Review contending the property was inequitably assessed and that there was fraud or misconduct in the assessment under Iowa Code sections 441.37(1)(a)(1, 5) (2018). The Board of Review denied the petition.

Kunzman then appealed to PAAB. On his PAAB appeal, Kunzman selected all grounds available under Iowa Code sections 441.37(1)(a)(1-5). Prior to going on the record at hearing, Kunzman acknowledged he was uncertain what each claim meant but believed there was no fraud in the assessment, or that his property was

unassessable nor should it be classified anything but residential. The Cerro Gordo Board of Review subsequently moved for a directed verdict on Kunzman's claim of fraud and claim that the subject property was unassessable or misclassified. PAAB granted the motion, thereby narrowing the scope of the inquiry to claims of inequity, over assessment, and error as provided under Iowa Code sections 441.37(1)(a)(1, 2 & 4).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2018). 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 may consider any grounds under Iowa Code section 441.37(1)(a)(1-5) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-71.126.2(2-4). PAAB 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). 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 0.259-acre site with a one-story home built in 1990. The home has 2022 square feet of gross living area (GLA), 650 square feet of rec-room-quality basement finish, a 960 square foot patio, and a two-car attached garage. It is listed as good-quality construction (3+05 grade) and in normal condition. (Ex. A).

Kunzman testified that he bought the subject site in 1990 and subsequently built a home on it, doing all of the construction himself. He argued there is no support for a

\$40,630 or 20% increase in its assessed value as there have been no improvements or updating since the home was built 28-years ago. Kunzman argued the subject property's assessment is excessive and its correct value is \$199,170, which matches its 2017 assessment. (PAAB Appeal).

Kunzman offered three photos showing a portion of an unfinished basement ceiling, an HVAC system in an unfinished area of a basement, and a stud wall built adjacent to a staircase with a door. (Exs. 16 & 17). It is unknown whether this is representative of the subject property's entire basement or just an unfinished portion, as none of the photos captured the length or breadth of the space.

County Assessor Katie Bennett testified that 2018 was a reappraisal year for the entire class of residential property in the County, which entailed a sales analysis and review as well as physical inspection of all residential properties. She noted the County contracted with Vanguard Appraisals to inspect and measure the exterior of the property and to make three attempts to gain access to do an interior inspection.

Exhibit D states that Kunzman's property was estimated in the reappraisal project and 650 square feet of rec-room-quality finish was added to his assessment record. The basement finish has a depreciated value of approximately \$11,530 in the 2018 assessment. In comparing the subject property's 2017 and 2018 property record cards, we note an increase in the base rate for the land value, the removal of a utility shed from the assessment, and a change in the subject property's construction grade from 3-10 to 3+5. (Ex. A, G). Combined with the addition of basement finish, these changes would contribute to the increase in Kunzman's assessment.

Bennett explained she subsequently offered Kunzman the opportunity to have her conduct the interior inspection to verify the correctness of the information listed in the Assessor's record for the subject property. She testified that Kunzman declined all requests for entry. Bennett noted that her office protocols do not permit changes in assessed value without an interior inspection.

Kunzman contends he was never approached by Vanguard requesting an interior inspection, and voiced frustration that no one has explained to him why his property's assessment increased so much. He testified that he believes he has been treated unfairly, and there has been an unwillingness to provide reasons or to explain why his

assessed value increased. He noted he met with a Vanguard Appraisals representative, but received no answers. He further noted the Board of Review guidelines state it “will not answer questions about how the assessment was determined.” (Ex. 6). We note the preceding sentence states, “Questions about the assessed value should be directed to the Assessor’s Office.” (Ex. 6).

Kunzman argued that his home is not comparable in age, quality, and condition with any other home in the area; that “there are no perfect matches.” But, he believes the following properties are close and support his claims. (Exs. 7-13).

Comp	Address	Assessed Value	Acres	GLA	AV/SF
SP	1512 Southfield PI	\$239,800	0.26	2022	\$ 118.60
1	1509 Southfield PI	\$200,200	0.36	1520	\$ 131.71
2	1501 Southfield PI	\$254,020	0.38	1536	\$ 165.38
3	1417 N 24th St	\$213,670	0.21	1483	\$ 144.08
4	2007 N 24th St	\$224,800	0.46	1645	\$ 136.66
5	1418 N 24th St	\$223,320	0.24	1578	\$ 141.52
6	1911 24th St	\$237,860	0.38	1766	\$ 134.69
7	1517 Southfield PI	\$293,970	0.48	2096	\$ 140.25

Kunzman testified that the interior of the garage for Comparable 7 is finished, unlike his, plus it has a fireplace, bigger lot size, a pool, three decks, and two baths. He noted it is outdated and rundown like his. He offered real estate agent Kristi Wilcke’s September 2018 handwritten note stating it is her professional opinion 1517 Southfield Place will sell for less than its asking price of \$225,000 due to the current condition of the property. (Ex. 7). Bennett noted Comparable 7 is a current foreclosed property held by a mortgage company, and therefore would not be a valid sale to include in a sales ratio analysis.

Comparable 6, Kunzman stated, is a newer, very nice home with a three-stall garage, two fireplaces, a bigger lot located across from the lake, and remodeled a year and a half ago. Yet, he points out, its total assessed value is lower than the subject property’s assessment. (Ex. 13).

Comparable 3 he believes is the most similar to his in site size and garage. But, it has 1000 square feet of living-quarters-quality basement finish, while the subject

property is listed with 650 square feet of rec-room finish. He notes Comparable 3 is assessed about \$26,000 less than his property. (Ex. 10).

Bennett argued Kunzman's comparables demonstrate equity in the assessments within his neighborhood, and that the subject property is not over assessed. The assessed values of the comparables ranged from \$200,200 to \$293,970. The subject property's assessed value of \$239,800 falls in the middle of the range. She further noted that the subject property has the lowest assessed value per square foot of GLA at \$118.60 while his comparables' range from \$131.71 to \$165.38 per square foot.

Bennett also testified that she believes the properties are comparable to the subject, noting they all are of similar age, and all have good-quality construction in normal or above-normal condition. She pointed to Comparable 7 as the closest to the subject property in gross living area with its 2096 square feet, noting it is a little older but with a slightly higher grade of construction. Kunzman argued it has a pool, believing that explains why its assessment should be higher. But Bennett explained pools depreciate rather quickly, and believes the value of Comparable 7's pool to be no more than \$5000. Kunzman disagreed and believed the pool adds more value to the property. We note the realtor listing does not mention the property has a pool. (Ex. 7).

We further note Comparables 1, 4, 6 & 7 have unfinished basements, compared with the subject property's 650 square feet of rec-room-quality basement finish. The subject property also has significantly more deck/patio area than most of the comparables.

Bennett confirmed that none of Kunzman's comparables were recent sales.

Analysis & Conclusions of Law

Kunzman contends the subject property is inequitably assessed, over assessed, and that there is an error in the assessment.

First, we find no evidence in the record of error in the assessment.

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).

We find Kunzman did not demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2017) and assessed (2018) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

Because the *Maxwell* test requires a showing of the subject property's actual market value and the Kunzman's overassessment claim requires the same showing, we forgo further equity analysis and turn to the overassessment 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)(2), 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).

It is insufficient to simply compare other properties assessments to succeed in an over assessment claim. Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). The taxpayer bears the burden of proof to show the subject property is assessed for more than authorized by law.

Here, the subject property did not recently sell nor did any of Kunzman's comparables. Further, Kunzman did not offer any other evidence of the subject property's market value. Typically, market value is demonstrated with a competent appraisal or a comparative market analysis, considering at minimum the sales comparison approach to value. In cases where a sales comparison approach cannot be completed, other approaches may be considered such as the cost approach and/or income approach.

Viewing the record as a whole, we find Kunzman failed to demonstrate the subject property is inequitably assessed, over assessed, or that there is an error in the assessment.

Because of Kunzman's expressed frustration and concerns regarding the increase in his assessment, he might consider contacting the Assessor's Office to

schedule an interior inspection before the next assessment cycle to confirm whether the subject property is correctly listed and valued.

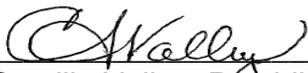
Order

PAAB HEREBY AFFIRMS the Cerro Gordo County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2018).

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.

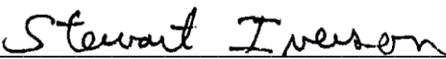
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code sections 441.37B and Chapter 17A.19 (2018).



Camille Valley, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Harvey Kunzman Jr
1512 Southfield Place
Clear Lake, IA 50428

Cerro Gordo County Board of Review by eFile