

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

PAAB Docket No. 2017-077-10294R

Parcel No. 171/00511-385-033

Roger Merschman,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 20, 2018. Roger Merschman was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Roger and Kristy Merschman own a residential property located at 1720 Everwood Court SW, Altoona, Iowa. The subject property's January 1, 2017 assessment was set at \$703,600, allocated as \$60,900 in land value and \$642,700 in building value. (Ex. A).

Merschman petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property and it was assessed for more than allowed by law under Iowa Code sections 441.37(1)(a)(1)(a & b). The Board of Review lowered the property's value to \$660,000. Merschman reasserted his 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).

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 subject property is a 0.651-acre site improved with a one-story home built in 2005. The home has 2325 square feet of gross living area, 2258 square feet of living-quarter-quality basement finish, open porches, a patio, and a three-car attached garage. The home is listed as executive-quality construction (0-05 grade) and in normal condition. (Ex. A).

Merschman believes his assessed value per square foot of improvement is higher compared to other properties, partly because of his pool and pool house. He contends the pool house is just a pretty garage, noting the neighborhood covenants requiring it to look like his house. He testified that it has no HVAC or water service.

Merchman offered six comparable properties in support of his claims. The following table summarizes his information. (Exs. 1 & 2).

Comp	Address	Year Built	Style	Assessed Value	GLA	AV / SF	Grade
SP	1720 Everwood Ct SW	2005	1-Story	\$660,000	2325	\$284	0-05
1	612 Stonegate Ct SW	2010	1.5-Story	\$690,400	3137	\$220	0+05
2	1634 Lakeview Dr	2011	1-Story	\$584,900	2784	\$210	1+05
3	1727 Everwood Ct SW	2006	1.5-Story	\$527,800	2627	\$201	1+05
4	1726 Everwood Ct SW	2004	1.5-Story	\$521,300	2819	\$185	1+05
5	619 Stonegate Ct SW	2009	1.5-Story	\$625,500	3470	\$180	0-10
6	718 Stonegate Ct SW	2009	2-Story	\$501,800	3156	\$159	1+05

Merschman noted Comparable 1 has a higher construction grade yet a lower assessed value per square foot of gross living area than the subject property. We note it has 812 more square feet of gross living area than the subject but it is a one-and-a-half-story home compared with the subject's one-story home. Upper levels are valued less per square foot than ground level living areas, which partly explains the differences in value per square foot. In addition, all else being equal, larger properties tend to have a lower value than smaller properties on per square foot basis due to the law of decreasing returns. APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 31-32 (14th ed. 2013). Further, the subject has more basement finished area than this property. (Ex. 1).

Merschman also referred to Comparable 5, noting its assessed value per square foot of gross living area is \$104 less than his yet its construction grade is only slightly lower. This home is also larger and a one-and-a-half-story which contributes to the differences in value.

Merschman asserts he overpaid for the subject property, arguing there are very few people willing to pay what he did for a home in Altoona. He stated there are very few Altoona home sales over \$500,000. He noted Comparable 1 has been on the market for six months while most properties sell within a matter of days. (Ex. 2). He

stated its listing price has been reduced several times yet it still has not sold. Merschman did not disclose the listing history for Comparable 1.

Comparable 5 is the only recent sale in the record. It sold in 2016 for \$625,000 and its 2017 assessed value was set at \$625,500, which results in an assessment to sale price ratio of 1.00. (Ex. 2).

Merschman believes \$504,525 to be a more reasonable value for his home and land. (Ex. 2). He based this value on a rate of \$217 per square foot of gross living area and his home's 2325 square foot gross living area. He then added \$80,000 for the pool and garage/pool house to arrive at a total value of \$584,525, which he rounded to \$585,000 during his testimony. However, this figure does not include the value of the land, which is currently assessed at \$60,900.

The Board of Review offered the subject property record card but provided no testimony at hearing.

Analysis & Conclusions of Law

Merschman contends the subject property is inequitably assessed and over assessed.

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). Merschman offered no evidence of the Assessor applying an assessing method in a non-uniform manner.

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 *Maxwell* test provides 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.*

While Merschman offered six comparable properties, Comparable 5 is the only recent sale in the record. Its 2017 assessed value to 2016 sale price ratio is 1.00. A ratio greater than 1.00 indicates a property is over assessed, and a ratio less than 1.00 indicates it is under assessed. However, more than one sale is required to establish

inequity. *Id.* at 712; *Crary v. Bd. of Review of Boone*, 286 N.W. 428 (Iowa 1939). Further, the actual value of the subject property must be demonstrated in order to complete the *Maxwell* equity analysis, as a ratio must be developed for the subject as well. Therefore, we turn to Merschman's over assessment claim which also requires the same showing.

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).

Comparing assessments of properties is insufficient for demonstrating a property's market value. Although Merschman attempted to establish a value for the subject property, his analysis failed to take into consideration its features and amenities, and in particular its land value when arriving at his \$585,000 opinion of value. Typically a subject property's market value is shown by making market adjustments to recent sale prices of similar properties to account for difference between them and the subject property. This is often accomplished with a competent appraisal or comparative market analysis, neither of which was offered by Merschman. Only one comparable with a recent sale was offered by Merschman, and no adjustments were made to arrive at a value for the subject property.

Viewing the record as a whole, we find Merschman failed to show his property is inequitably assessed or over assessed.

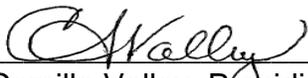
Order

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

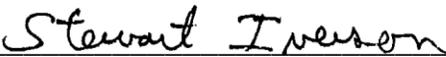
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

Copies to:

Roger Merschman by eFile

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