

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

PAAB Docket No. 2018-017-10034R

Parcel Nos. 05-23-303-020 and 05-27-101-005

Lothar Meyer,

Appellant,

vs.

Cerro Gordo County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2018. Lothar Meyer is self-represented and asked the appeal proceed without a hearing. Assistant County Attorney Steve Tynan represents the Cerro Gordo County Board of Review.

Meyer owns two residential properties located in Clear Lake. The following table summarizes the properties and their January 1, 2018 assessments. (Ex. A).

Parcel	Address	Land Value	Dwelling Value	Total Value
05-27-101-005-00	4053 240th Street	\$104,650	\$172,540	\$277,190
05-23-303-020-00	Crane Street	\$57,850	\$0	\$57,850

Meyer petitioned the Board of Review contending the properties were inequitably assessed and that they were assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1 & 2) (2018). The Board of Review denied the petitions. Meyer then appealed to PAAB and continues to assert the properties are inequitably assessed. § 441.37(1)(a)(1).

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-e) 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(3)(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. *Id.*; 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

4053 240th Street is an A-frame home built in 1995. It has 1818 square feet of gross living area, no basement, a deck, an enclosed porch, and an attached garage. The site is 0.145 acres and is receiving a \$50,000 adjustment to the assessed land value for "Lake View." The Crane Street property is a 0.105-acre vacant site and is receiving a \$25,000 adjustment to the assessed land value for "Lake View." (Ex. A).

Meyer purchased 4053 240th Street in March 2015 for \$300,000 in a normal, arms-length transaction. (Ex. E). It is unclear when Meyer came to own the unimproved parcel on Crane Street. Cerro Gordo County Assessor Katie Bennett reported that Meyer had advertised the Crane Street property for sale by owner for \$65,000. (Ex. D). No other details are known about this offering. Bennett noted that vacant lots in close proximity to the lake are rare, but a vacant site located in a neighborhood similar to the Crane Street neighborhood recently sold for \$65,000. (Ex. F.)

Bennett reported that a revaluation of residential property took place for the 2018 assessment. She noted 4053 240th Street is located on a private, low traffic street immediately across from Iowa's third largest natural lake. Bennett reported that a lake view/influence unit site adjustment ranging from \$25,000 to \$100,000 was applied to properties near but not on the lake. (Ex. D). 4053 240th Street had a \$50,000 unit adjustment to its land value based on its limited or moderate view of the lake. Crane Street had a \$25,000 unit adjustment to its land value based on its limited or no view of the lake; it also had an unexplained downward \$20,000 adjustment to its land value. (Ex. A).

Meyer does not appear to dispute the assessed value of his improvements, only the assessed land value. (Appeal & November 3, Letter to PAAB). Meyer submitted photographs and portions of Beacon reports of several properties he believes are comparable to his properties that demonstrate inequity in the assessments. (Exs. 1-22). Based on Meyer's evidence, it appears he is attempting to demonstrate through photographs of his comparable properties that there is no discerning difference in their views compared to the views for either of the subject properties. (Exs. 2-3, 5-8, 10-17, 19 & 21).

Additionally, on many of his exhibits, Meyer submitted hand-written calculations of the assessed value per square foot of the comparable sites compared to the subject properties. In an October 11 memo to PAAB, Meyer asserts this demonstrates that not all properties are being assessed similarly for views. The comparables' complete property record cards were not submitted so we are unable to verify Meyer's calculations.

The Board of Review submitted aerial photographs and some commentary on Meyer's comparable properties. (Exs. G-J). Exhibit G is an aerial photograph of the subject property located at 4053 240th Street (Exs. 3-4, 7-8, & 11). Exhibit G indicates that Meyer's comparables include parcels that are valued as part of larger tracts or units. (See Exhibits 3, 4, 7, 8, 11). It also shows the properties adjacent to the 4053 240th have land value assessments of \$102,850 and \$104,650, which are consistent

with the 4053 240th property. Importantly, like the subject, these properties are improved with dwellings and not valued as part of a larger tract.

Exhibit H is an aerial of the subject property located on Crane Street and Meyer's comparable properties located on this street. (Exs. 2, 18-19). These comparables all have land assessments that exceed the Crane property's land assessment.

We find the property detailed in Exhibits 21 and 22 are not similar to Meyer's property because it is a condominium. There is no indication in the record where the properties specified in Exhibits 12 through 17 are located relative to the Meyer's properties and therefore we are unable to evaluate their comparability. Therefore, we give them no consideration.

Analysis & Conclusions of Law

Meyer contends the subject properties are inequitably assessed compared to other like property in the taxing district under Iowa Code section 441.37(1)(a)(1). Despite Meyer's focus on land value inequity, 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); *White v. Bd of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Accordingly, while giving due consideration to Meyer's arguments, our end focus when evaluating his claim is on the subject's total value.

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 that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.*

Meyer did not offer evidence demonstrating the actual value of comparable properties or the subject properties to complete the *Maxwell* equity analysis. Actual value is normally demonstrated through evidence of a recent, normal sales transaction, an appraisal, or comparative market analysis. Therefore, we find Meyer did not prove inequity under *Maxwell*.

Alternatively, a taxpayer may show inequity by demonstrating 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). Meyer does not appear to agree with the determination of the lake view/influence adjustments that were applied to his sites and asserts the assessed value per square foot is inconsistent from property to property. The Board of Review provided an explanation of the methodology employed.

First, we note the assessed value per square foot of properties can vary based on their size, location, shape, and other factors and a variance in per square foot values is not, by itself, conclusively demonstrative of inequity. The record here does not contain sufficient information to confirm Meyer's per square foot calculations or to evaluate the reliability of Meyer's calculations to the issues before PAAB. For instance, the evidence indicates some of Meyer's comparables may have been valued as part of larger tracts and therefore consideration of the per square foot land value of a single parcel thereof is misleading.

Mostly importantly, we find there is insufficient evidence the Assessor applied an assessment method in a non-uniform manner to alike properties. Ultimately, Exhibits G and H demonstrate Meyer's properties are equitably assessed when compared to the properties that are the most similarly situated. Moreover, there is no indication that the subject properties total values are inequitable with similarly situated properties.

Viewing the record as a whole, we find Meyer failed to show the subject properties are inequitably assessed.

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.

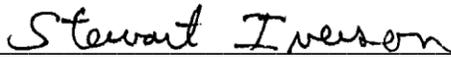
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2018).



Karen Oberman, Board Member



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

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Cerro Gordo County Board of Review by eFile