

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

PAAB Docket No. 2017-077-10251R

Parcel No. 090/03191-000-000

Michael Reida,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came before the Property Assessment Appeal Board (PAAB) on March 26, 2018. Michael Reida was self-represented and requested a written consideration. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Michael and Cheryl Reida own a residential property located 6340 Harwood Court, Des Moines. The property's January 1, 2017 assessment was set at \$189,500, allocated as \$38,700 in land value and \$150,800 to improvement value. (Ex. A).

Reida petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property and the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a & b). The Board of Review denied the petition. Reida 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 one-story home built in 1952. It has 1113 square feet of gross living area, 750 square feet of average-plus basement finish, a deck, a porch, and a two-car detached garage. The site is 0.342 acres. (Ex. A).

Reida submitted a letter and a map of his neighborhood and identified the assessments of nearby properties on 64th Street and Harwood Court. (Appeal). He asserts the properties one block over on 63rd Street are not similar to those on 64th Street and Harwood Court and thus not relevant for comparison. He believes the properties 64th Street and Harwood Court are "virtually the same" having all been built

in 1952 by the same builder. In Reida's opinion, the assessments of these nearby properties are "all over the map" with an average assessed value of \$172,000. In particular, he noted a property located on the same cul-de-sac as his property is assessed for \$30,000 less than his. He is also seemingly frustrated that a next door neighbor's property had its assessment reduced by \$10,000 following an appeal to the Board of Review.

Reida did not submit the property record cards or any other information about these neighboring properties for PAAB to determine their comparability to the subject. Although he stated they were all built in the same year as his property, it is possible some of the properties have had updating, deferred maintenance, or other amenities that would cause their assessments to be higher or lower than his assessment. Moreover, there is no evidence in the record that any of these properties are recent sales.

Reida acknowledged his property is improved with a two-car detached garage and a shed, which many of the neighboring properties do not have. We note Reida's shed is most likely considered personal property as it is not listed on the property record card or cost report. (Exs. A-B).

Analysis & Conclusions of Law

Reida asserts his property is both 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). Reida offered no evidence of the Assessor applying an assessment 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 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.* Because the

Maxwell test requires a showing of the subject property's actual market value, and Reida's over assessment claim requires the same showing, we forgo further equity analysis and turn to his over assessment 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)(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).

Reida reported the assessed values of neighboring properties. However, there is no information for us to determine if the properties are comparable to his or if any have recently sold. Simply comparing assessments or relying on average assessments to value a property is insufficient evidence for both an inequity claim and an over assessment claim. To succeed in a claim of over assessment, the property's market value is typically demonstrated with a competent appraisal or a comparable market analysis, considering at minimum the sales comparison approach to value.

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

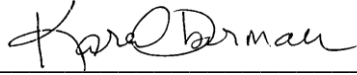
Order

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

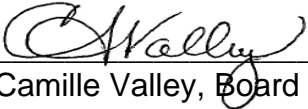
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

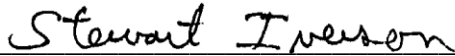
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

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Polk County Board of Review by eFile