

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

PAAB Docket No. 2017-077-00506R

District/Parcel No. 090/00408-000-000

**Elenor Resh,**

Appellant,

**vs.**

**Polk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 1, 2017. Elenor Resh was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Elenor Resh (a/k/a A & E Assets LLC) owns a residential property located at 4006 Grand Avenue, Des Moines, Iowa. The property's January 1, 2017 assessment was set at \$460,000, allocated as \$73,700 in land value and \$386,300 in building value. This was a partial value. (Ex. A).

Resh 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(a)(1)(a & b). The Board of Review denied her claims. Resh reasserts her 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 0.752-acre site with a two-story home. Built in 1912, the home has 3718 square feet of above ground living area, a deck, an open porch, a patio, and a 1200 square foot detached garage. The home is listed in excellent condition with superior quality construction (1+05) grade. (Ex. A).

Elenor Resh testified that she bought the subject property in 2015 for \$156,000, with plans to convert it back into a single family home. It took a while for the renovation project to get underway, therefore she petitioned the Board of Review to reduce the 2016 assessed building value to \$41,300 thereby modifying the total assessment to \$105,600.

She noted the initial renovation efforts were focused on the outside of the home. As of December 31, 2016, a new roof, siding, windows and gutters were installed and the house had been painted and sealed for winter. On the interior, framing, electrical and plumbing had all been roughed in and passed inspection. Drywall had been hung and the heating/cooling system had been installed. However, the home was not completed until July 2017. Resh testified that no one lived in the home prior to their August move-in.

Resh argues the subject property's January 1, 2017 assessed value of \$460,000 is too high because the renovation had not been completed. She contends its value should only be \$263,700, based on what she had spent as of December 31, 2016. (Ex. 1).

Resh testified that she did apply for residential tax abatement in April, and listed the estimated cost of improvements at \$700,000. As the home was incomplete, she decided to wait until she could get the full abatement rather than just a partial. She acknowledged her home, once completed, could sell for around \$700,000 given its location in the South of Grand neighborhood. However, she stated she does not know the actual value of her home in its now completed state.

Brett Tierney, a residential real estate appraiser with the Polk County Assessor's office, testified that his duties include appraising properties in the South of Grand neighborhood.

Tierney stated he is familiar with the subject property, noting he was first there because of a permit on the house which the previous owner had not followed through on. At that time, his observation from outside the home was that it was in "really, really, really rough shape." It was his understanding it had been vacant for several years. He believed it was going to be a major undertaking to make the house habitable again.

Tierney testified that the subject property's renovation was a very slow process, as the property had to be cleaned up. The whole house was gutted. Of all the houses he has seen he believed the subject property's renovation would be a very intensive and difficult project. Tierney states he gives owners the benefit of the doubt with renovation projects of this magnitude because of the unknowns they may encounter or design changes which can cause delays.

Once everything was torn out of the house, the configuration inside the home was changed, and component parts were replaced and upgraded. The original components of the home that could reasonably be preserved were restored but most of the interior was completely unsalvageable.

Tierney testified that he re-measured the whole house, both inside and out, to correct for inaccuracies in the record. (Ex. B). In his opinion the measurements in the record are accurate.

Tierney testified that he conducted an inspection in mid-January 2017 and observed the home's exterior had been restored, with some of the home's exterior component parts preserved. He testified that a lot of work had been done on the interior of the home but it was not yet complete. He determined the restoration project to be at the "trim stage" or 80% complete based on the IOWA REAL PROPERTY APPRAISAL MANUAL. MANUAL 7-81 (2008).

Using the MANUAL, Tierney developed the cost approach to value as if the dwelling was 100% complete and concluded a value of \$460,000. Based on his determination that the dwelling was 80% complete as of January 1, 2017, its value was determined to be \$367,840. The value of all improvements as of the assessment date, which includes the detached garage, was \$386,300. He believes this is a conservative figure given what comparable homes have sold for in the South of Grand neighborhood. He opined the subject property will sell for at least \$550,000 to \$650,000 with the dwelling complete.

Resh argued the home should have been considered only 50% complete because trim for a home like this is very expensive. As of January 1, 2017, it was still uninhabitable as there were no bathrooms or kitchen. She noted walls still needed to be textured, painted and trimmed. Doors needed to be hung. Flooring needed to be installed and finished. Lighting fixtures needed to be installed. Kitchen appliances, cabinets and plumbing fixtures as well as bathroom cabinets and plumbing fixtures had to be added.

## Analysis & Conclusions of Law

Resh asserts her property is inequitably assessed, and the assessment is more than allowed by law.

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

Alternatively, a taxpayer may show the property is assessed higher proportionally than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing:

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of the actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

*Id.* At 711.

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 its actual value. *Id.* Typically, to establish inequity, sales from the prior year are compared to the current assessment to determine the assessment/sales ratio. Here, Resh did not submit any 2016 sales therefore the ratio analysis under *Maxwell* cannot be performed.

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).

Here, the subject property's renovation project was only partially finished as of January 1, 2017. As noted above, the estimated value "as completed" and the percentage completed to date are used to determine the assessed partial value of

improvements under renovation. Resh believes the renovation project was only 50% complete while Tierney determined it was 80% complete. Given the guidance in the MANUAL, we find Tierney's estimate is more reasonable than Resh's.

Viewing the record as a whole, we find Resh failed to show the subject property is inequitably assessed or assessed for more than allowed by law.

### **Order**

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

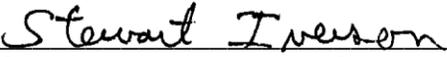
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

  
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Camille Valley, Presiding Officer

  
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Karen Oberman, Board Member

  
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Stewart Iverson, Board Chair

Copies to:

Elenor Resh by eFile

Christina Gonzalez by eFile