

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

PAAB Docket No. 2017-077-00597R

Parcel No. 240/00750-750-017

Phillip Stanislav,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 2, 2018. Phillip Stanislav was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Phillip and Gretchen Stanislav own a residential property located at 11670 NW Beaver Drive, Granger. The property's January 1, 2017 assessment was set at \$631,800, allocated as \$140,300 in land value and \$491,500 to improvement value. (Ex. A).

Stanislav petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition. Stanislav reasserted his claim 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 two-story home built in 2005. It has 3244 square feet of gross living area, a walkout basement with 1600 square feet of living-quarter-quality finish, and an over-sized (1748 square foot) three-car attached garage. The home has a grade of 2-05 (high quality construction) and is listed in normal condition. Other improvements include a 2520 square foot metal utility building built in 2002, and a 1728 square foot stable with four stalls that was built in 2014. The site is 6.36 acres. Stanislav purchased the subject property in September 2013 for \$540,000. (Ex. A).

Stanislav believes his home has been systemically over assessed since it was built. He explained the history of the subject property includes five Board of Review actions, three of which occurred prior to his ownership. Several of the actions (2007, 2009, and 2015) resulted in a lower assessed value. (Ex. A). The market adjusted cost report shows the property receives a negative 5% functional obsolescence adjustment and a negative 10.3% market adjustment. (Ex. B).

The following table is a summary of properties Stanislav believes demonstrate his property is inequitably assessed. (Exs. C-P and 3-4).

Address	Gross Living Area	Site Size (Acres)	Building Assessed Value	Site Assessed Value	Total Assessed Value	Building AV/SF
Subject	3244	6.36	\$491,500	\$140,300	\$631,800	\$151.51
1 - 11695 NW Beaver Dr	4238	3.48	\$487,700	\$87,170	\$574,880	\$115.08
2 - 11635 NW Beaver Dr	3448	5.40	\$359,600	\$122,600	\$482,200	\$104.29
3 - 11615 NW Beaver Dr	2548	3.93	\$323,100	\$112,400	\$435,500	\$126.81
4 - 11595 NW Beaver Dr	2745	3.23	\$349,500	\$105,900	\$455,400	\$127.32
5 - 11520 NW Beaver Dr	3486	4.43	\$499,600	\$117,000	\$616,600	\$143.32
6 - 11518 NW Beaver Dr	3887	3.61	\$536,500	\$109,400	\$645,900	\$138.02
7 - 10990 NW 115th Ave	4773	2.66	\$530,900	\$99,700	\$630,600	\$111.23
8 - 11690 NW Beaver Dr	2791	3.51	\$292,700	\$108,500	\$401,200	\$104.87

The comparable properties are located within one-quarter mile of the subject property. (Ex. 2). Only Comparable 3 recently sold (2016) but it transferred from an estate. (Exs. G & Q). All of the comparable properties have similar grades ranging from 2-05 to 1+05, with the subject at the low end. All of the comparables are older than the subject property with a year built ranging from 1985 to 1999. This would result in higher depreciation in the cost approach and contribute to lower building assessed values for the comparable properties.

Stanislav observed that his assessment includes roughly \$193,000, or more than 30% in “cost additions,” which he notes is more than any of the other properties in the record. (Ex. B & 5). He reported the comparable properties have between 16.8% and 26.3% comparatively. (Ex. 5). We note his calculations utilize the total assessed value as the denominator and therefore his ratios do not account for differences in land values amongst the properties.

Specifically, he was critical of the assessed values of some elements such as the subject property's geo-thermal heating, multiple fireplaces, the over-sized attached garage, and the open porch. (Ex. 5). The subject's attached garage has 1748 square feet and a depreciated assessed value of roughly \$54,000. Stanislav's comparable properties have attached garages ranging from 410 square feet to 1188 square feet and depreciated assessed values ranging from roughly \$21,000 to \$46,000. The average garage size of the comparables is less than 800 square feet. In Stanislav's opinion, the market would not pay more for his garage because it only has three overhead doors allowing for no more than three vehicles to be stored. While we agree the portion of the subject garage that is in excess of market standards would likely have a decreasing return, we are not inclined to believe it would cease to contribute value. Moreover, these arguments more directly relate to a claim of overassessment under Iowa Code section 441.37(1)(a)(1)(b), which was not raised to the Board of Review and is not before PAAB.

Comparables 4, 6, and, 7 do not have any outbuildings, whereas the subject property has two outbuildings with a depreciated assessed value of \$46,191. (Ex. B). The remaining comparables have outbuildings ranging from detached garages to larger utility buildings and stables with depreciated assessed values ranging from roughly \$10,000 to \$30,000. Because the subject has larger and higher valued outbuildings than the comparables, this enhances the subject's value compared to these properties.

Additionally, the subject property also has roughly \$52,000 of depreciated assessed value attributable to its basement finish. (Ex. B). Only Comparables 5 and 7 have basement finish; both of which have less finish and lower quality finish than the subject property with contributory values of roughly \$30,000 and \$38,000 respectively. (Exs. L and P).

Stanislav compares the assessed building value per square foot of the comparable properties to his home, noting the average building assessed value is \$121.37 per square foot compared to his building assessed value of \$151.51 per square foot. (Ex. 4). However, all of the previously described differences would contribute to differences in the building assessed values. The subject's building assessed value per-

square-foot is higher than all of the properties Stanislav submitted, however he has an attached garage that is roughly 100% larger than the majority of the comparables he offered; more and better quality basement finish; and larger, more valuable outbuildings, all of which are included in the building assessed value.

Stanislav also questioned the quality rating (grade) of his home noting he has base grade decking, pine trim, and formica counters.

The Board of Review did not offer any testimony at hearing.

Analysis & Conclusions of Law

Stanislav asserts his property is inequitably 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). Stanislav 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 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.*

The record includes only one 2016 sale to compare to its current 2017 assessment for establishing a ratio as contemplated by *Maxwell*. However, this sale transferred from an estate, and therefore is considered an abnormal sale. 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. Iowa Code § 441.21(1)(a). *Id.* Additionally, more than one sale is needed to determine whether the subject property is assessed at a higher proportion of its actual value as compared with similar properties. Therefore, the *Maxwell* equity analysis cannot be completed.

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

Because Stanislav expressed concern that his home has a lower quality finish, which could impact its assessed value, he may wish to request the Assessor's Office perform an inspection prior to the next assessment cycle.

Order

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

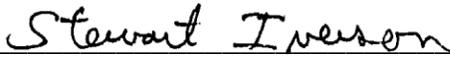
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

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.

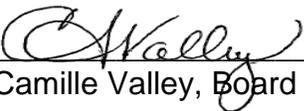
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

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