

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

PAAB Docket No. 2018-078-00169R

Parcel No. 7443 23 127 004

**Albert Stusse,**

Appellant,

vs.

**Pottawattamie Board of Review,**

Appellee.

---

**Introduction**

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 8, 2018. Albert Stusse is self-represented, and asked the appeal proceed without a hearing. Assistant County Attorney Leanne Gifford represented the Pottawattamie County Board of Review.

Albert and Janean Stusse own a residential property located at 12842 Traceview Loop, Council Bluffs, Iowa. The subject property's January 1, 2018 assessment was set at \$450,200, allocated as \$80,500 in land value and \$369,700 in dwelling value. (Ex. A).

Stusse petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property and was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1, 2). The Board of Review denied the petition. Stusse reasserted his inequity claim to PAAB.

## 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)(1-5) 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(1)(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. § 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).

## Findings of Fact

The subject property is a 2.02-acre site with a one-story home built in 2008, which has 1808 square feet of gross living area, a walk-out basement with 1500 square-feet of living-quarters-quality basement finish, a partially covered deck, a concrete patio, and an over-sized three-car attached garage. (Ex. A).

Stusse purchased the subject property in 2015 for \$434,000. (Ex. 5). Using the 2015 sales price and the 2018 assessment, he calculated an assessment to sales price ratio of 1.04.

Stusse stated that all properties in the subject's subdivision were reassessed in 2018. He indicated two comparable properties were used by the County to justify an increase in his assessed value. (Ex. 5). He submitted an email from Lesa Ryan identifying the two improved sales and their assessed value to sale price ratios along with a ratio for the subject property, which were developed after the 2018 valuations were set. (Ex. 4). The following table summarizes this information.

Address	Sale Date	Sale Price	2018 Assessment	Ratio
Subject	Sep 2015	\$434,806	\$450,200	1.04
12831 Traceview Loop	Jan 2014	\$594,806	\$571,500	0.96
12833 Traceview Loop	Jan 2018	\$635,433	\$607,600	0.96

Stusse also provided information about three recently sold properties, which are summarized in the table below. (Exs. 3, 6, 7).

Address	Sale Date	Sale Price	2018 Assessment	Ratio
24065 Burgan Ave	Sep 2017	\$357,500	\$344,400	0.96
18015 Ashley Ln	Jul 2017	\$397,500	\$380,900	0.96
17340 Turnberry Rdg	Jul 2017	\$389,000	\$390,200	1.00

None of these sales are located in the same district as the subject (Lewis Township district) or the same subdivision (Traceview Estates). (Ex. D). Aside from the difference in location, these properties appear to be generally similar and comparable to the subject.

In addition to these sale properties, Stusse provided the property record card for 12841 Traceview Loop. (Ex. 8). While this property did not recently sell, it is located in the same district and we find it is similar to the subject property. It was assessed for \$431,500 in 2018.

### **Analysis & Conclusions of Law**

Stusse contends the subject 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).

We find Stusse has not shown the Assessor applied an assessing method in a non-uniform manner to similarly situated properties.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual and assessed values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

The record includes a 2014 and a 2018 sale of two properties with assessed value to sale price ratios of 0.96 each. In addition, Stusse offered three 2017 sales with ratios of 0.96, 0.96 and 1.00. A ratio less than 1.00 indicates a property is under assessed. A ratio greater than 1.00 indicates a property is over assessed. We note an assessment to sales price ratio is normally calculated using the prior year sale with the current year assessment. In this case, we consider the three 2017 sales as well as the 2018 sale because it occurred within a few days of the January 1, 2018 assessment date. The 2014 sale is too old to consider. The assessed value to sale price ratios for the four current sales indicate a median ratio of 0.96.

However, we find we cannot complete the *Maxwell* equity analysis because an assessment to sale price ratio cannot be developed for the subject property. Stusse's 2015 sale is too old to serve as the basis for calculating an assessment to sales price ratio. Typically, market value is demonstrated with a competent appraisal or comparative market analysis, considering at minimum the sales comparison approach to value.

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

## Order

PAAB HEREBY AFFIRMS the Pottawattamie 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.

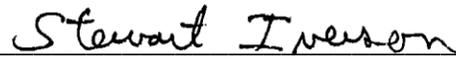
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code sections 441.37B and Chapter 17A.19 (2018).



Camille Valley, Board Member



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Albert Stusse by eFile

Leanne Gifford for the Board of Review by eFile