

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

PAAB Docket No. 2019-038-00141R

Parcel No. 871712179001

**Elyse Jaclynne Garcia,**

Appellant,

vs.

**Grundy County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 21, 2019. Elyse Garcia was self-represented. Grundy County Attorney Erika Allen represented the Board of Review.

Tyler and Elyse Garcia own a residential property located at 1206 E Avenue, Grundy Center. The property's January 1, 2019, assessment was set at \$192,340, allocated as \$18,608 to land value and \$173,730 to improvements. (Ex. F).

Garcia petitioned the Board of Review claiming her assessment was not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1). She further marked the portion of the form reserved for a claim that there was fraud or misconduct in the assessment and referenced an attached letter. § 441.37(1)(a)(5). The Board of Review denied the petition.

Garcia then appealed to PAAB again marking the portion of the form reserved for an inequity claim. However, in addition to this claim, her plain statement essentially asserted the property was assessed for more than the value authorized by law. At the time of the hearing all parties agreed that the appeal grounds were inequity and over assessment. § 441.37(1)(a)(1 & 2).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). 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) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). 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, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is a split-level home built in 1959. It has 1598 square feet of gross living area which includes an addition built in 1999, a basement with 475 square feet of rec-room quality finish, a deck, a concrete patio, a one-stall garage, and an attached metal carport. The improvements are listed in excellent condition with a 3-05 Grade (good quality). There is also a small shed built in 1997. The site is 0.308 acres. (Ex. F).

Garcia purchased the property in 2013 for \$134,000. She testified she and her husband have made no improvements to the property other than a new roof and she cannot understand the large increase in value over a six year period. The property record card shows the subject's assessment increased from \$104,750 to \$168,260 in 2015. (Ex. F). Garcia testified she did not receive notice of this assessment increase.

She believes she has been singled out with a higher assessment than others for personal reasons and suggests discrimination may be a factor. She also raised concerns over what she described as rude behavior and intentional misinformation by

the Assessor. (Ex 1). Garcia had many questions about the assessment process and requested an explanation of the process and rationale for the decision reached by the Board of Review. Although her appeal and testimony indicated she had a Broker evaluation approximately a year ago which arrived at a potential sale price of no more than \$180,000, her appeal indicates her belief the correct value of her property is \$165,000. (PAAB appeal)

Garcia submitted five comparable properties to the Board of Review, which are summarized in the following table. (Ex. T). The record also includes photographs of each of the comparable properties. (Exs. G-K)

Comparable	Year Built	Style	Grade	Condition	Gross Living Area (SF)	Assessed Value	AV/SF	Entry Status
Subject	1959	Split level	3-05	Excellent	1598	\$192,340	\$120.36	Refused
1 – 501 14th	1956	1 -Sty	3+00	Normal	1886	\$168,590	\$89.39	Estimated
2 --1205 E Ave	1961	1-Sty	3-05	Normal	1384	\$141,320	\$102.11	Inspected
3 – 400 Southview	1978	1-Sty	4+05	Above Normal	1192	\$150,530	\$126.28	Refused
4 –1202 E Ave	1975	Split Foyer	3-05	Above Normal	1344	\$143,380	\$106.68	Inspected
5 –1113 F Ave	2013	1-Sty	2+10	Normal	2916	\$446,930	\$153.27	Estimated

Comparable 5 is 54-years newer, more than 1300 square feet larger, and has a higher grade than the subject. For these reasons we do not find it similar to Garcia’s property. The remaining properties are one-story homes, which typically have greater appeal than split-level homes because of all the living area on one level.

Garcia testified that her neighbor (Comparable 4) is a split-level home like hers but has less living area, and a two-car garage compared to her one stall. (Ex. J). She testified this property sold for \$152,500 and remains assessed lower than her property. No other evidence concerning this sale or whether any of the other comparables have recently sold is in the record.

Grundy County Assessor, John Freese, testified Comparable 4 is similar to the subject but it is sixteen years newer; he contends for this reason it is not truly comparable. Based upon the photographs, we find Comparable 4 appears very similar

to the subject. (Ex. J). Nonetheless, its assessment is almost \$50,000 less than the subject.

There is no information about amenities or other features of the comparables in the record. Looking at the assessed values alone, it is understandable why Garcia believes her property is inequitably assessed as her assessment is one of the highest. This is likely due, in part, to the fact that all of the properties she selected are listed in normal or above-normal condition compared to the subject's rating of excellent condition.

Garcia also questioned why her property was listed in excellent condition and submitted exterior photos of her driveway, portions of siding, the wood deck and stairs, and the foundation. (Exs. 7-15). These photographs reflect what appears to be deferred maintenance of the driveway asphalt, the paint or sealant on the wood decking and stairs, loose siding, and areas of the foundation that may need patching or other repairs. No pictures of the remaining exterior or interior of the house are in the record.

Assessor John Freese testified a County wide residential revaluation started in July 2013 and was completed by approximately November 2014. Prior to that time, property records for Grundy County were based on information from 1989. During the revaluation process, data was collected for all residential properties in the County, which included an attempt to physically inspect the interior and exterior of every property to verify data. Freese testified an attempt to inspect the subject property occurred in September of 2013, at which time entry was refused. (Ex.C). He explained that typically during the revaluation process there are three attempts to inspect a property. Ultimately, the property card is noted as "inspected, refused or estimated." If no property owner is found at home after three attempts the card is marked "estimated" to distinguish from a property owner's refusal to permit an inspection. In either of these situations, the condition for the property is then estimated based on the judgement of the inspector. Freese explained he does not personally review the condition rating for each of the thousands of Grundy County properties, but rather will respond to resident inquiries and requests for condition reviews.

Freese testified Garcia and her mother inquired about the subject property's assessment in September 2018. As a result of that inquiry Freese requested an interior inspection. (Ex. D). We note the request for the inspection occurred roughly three months after Garcia's September inquiry. Garcia did not respond to the request.

At hearing, Freese expressed a willingness to review the subject property to ensure it is properly listed but this would require authorization to enter the property. Garcia responded that she would not allow an inspection.

Board of Review submitted six sales of properties it believes are the most similar to the subject property. (Ex. L & M-R). Freese testified to his opinion these were normal transactions.

Comparable	Style	Year Built	Grade	Condition	Gross Living Area (SF)	Sale Price	SP/SF	Entry Status
Subject	Split level	1959	3-05	Excellent	1598	NA	NA	Refused
1 – 1201 12th St	Split Foyer	1964	4+10	Normal	1085	\$143,000	\$131.80	Inspected
2 – 101 D Ave	Split Foyer	1978	4+10	Normal	1394	\$175,000	\$125.54	Inspected
3 – 1005 11th St	Split Foyer	1956	4+00	Normal	936	\$133,800	\$142.95	Estimated
4 – 207 K Ave	Split level	1970	4+5	Normal	1196	\$94,500	\$79.01	Inspected
5 – 503 2nd St	Split Foyer	1969	4+10	Normal	1170	\$94,560	\$80.82	Inspected
6 – 1512 Canterbury	Split level	1972	3-05	Above Normal	1809	\$185,00	\$102.27	Inspected

The sales are of split-level or split-foyer homes that occurred between January 1, 2017 and July 9, 2019. Only Sale 2 occurred in 2018 and no evidence of its assessed value was submitted. All were listed in normal condition, except Sale 6 which was listed as above-normal. The properties have similar quality of construction grades as the subject. The sales price per square foot of the properties ranges from roughly \$79 to \$143, compared to the subject's assessed value of roughly \$120 per square foot. The Board of Review did not adjust these sales for differences between them and the subject property to conclude an opinion of market value as of January 1, 2019.

The Board of Review considered Sales 1 and 3 to be the most similar to the subject based on year built and style. It points out the subject's assessment is less than the sales price of these properties on a per square foot basis. However, both have less

gross living area than the subject and their sales prices are significantly lower than the subject's assessment. Moreover, we find a per-square-foot comparison may be misleading because smaller properties tend to sell for more on a per square foot basis, all else being equal. A comparison of Sales 1 and 3 with Sale 2 demonstrates this principle. For similar reasons, we find the per-square-foot comparison of assessed values in Exhibit S also does not conclusively demonstrate the subject's assessment is at market value or equitable.

Notably, despite not being the largest or the newest, the subject's assessment is higher than any of the sale prices. Photographs of the properties indicate all, except Sale 3, have two-stall garages compared to the subject's one-stall with carport.

We note that Sale 2 is slightly smaller than the subject, but more recently constructed and has a two-stall attached garage. (Exs. L & N). It sold in November 2018 for \$175,000; or roughly \$17,000 less than the subject's 2019 assessment.

Though smaller than the subject, Sale 4 also has a tuck-under garage like the subject and offers similar exterior aesthetic appeal. It is 11 years newer than the subject and sold in February 2019 for \$94,500.

Garcia was critical of the Board of Review's sales, asserting they are in better condition compared to her home, yet they are listed in normal and above normal condition.

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

PAAB was created in 2007 and is dedicated to establishing a consistent, fair, and equitable property assessment appeal process. Iowa Code § 421.1A. PAAB is not affiliated with any assessor's office or board of review.

We acknowledge the hearing testimony and evidence regarding the attempted 2013 property inspection, the 2015 increase in the property's assessment, a 2018 meeting at the Assessor's Office involving Freese and Garcia, and Garcia's concerns about communications from the Assessor's Office. Those issues are largely outside the scope of PAAB's purview. The issues before PAAB and within its jurisdiction are

Garcia's assertions under section 441.37 related to the subject property's 2019 assessment.

Garcia asserts her assessment is not equitable as compared with assessments of other like property, and that the subject property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1 & 2).

**a. Inequity Claim**

To prove inequity, a taxpayer may show 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). In *Eagle Food Centers*, after comparing the income approach used by the Assessor to value *Eagle Food Centers'* property with other shopping centers in the area, the Iowa Supreme Court found the assessor did not uniformly apply capitalization rates, vacancy rates, and other adjustments.

Here, we find there is a question as to whether the subject has been treated uniformly in terms of the condition rating that has been assigned as compared to other properties in the record. The record shows the subject is the only property with an 'Excellent' condition rating. Recognizing the lack of evidence of the interior of the subject's condition, the exterior photographs indicate the subject's exterior is likely not in 'Excellent' condition. Nevertheless, we ultimately find the record is insufficient to demonstrate the variance in condition ratings has caused inequity because there is an underlying lack of evidence allowing for comparison of the properties' conditions.

As it relates to the dispute concerning the inspection and condition of the subject, we state the following. Under Iowa law, "[e]ach assessor shall, with the assistance of each person assessed . . . enter upon the assessment rolls the several items of property required to be entered for assessment." § 441.18. The IOWA REAL PROPERTY APPRAISAL MANUAL acknowledges that "[a]ccurate listing of property is the basis of good mass appraisal" and that "on-site inspection and listing of property is essential." MANUAL P. 1-2. Additionally, Iowa law authorizes the use of appraisers, experts, or technical help to assist in the valuation of property. § 441.50. Ultimately, an assessor may exercise "honest judgment, as provided by law [...] in matters pertaining to valuing and assessing

of individual properties within their respective jurisdictions” Iowa Admin. Code R. 701–71.18.

We can understand Garcia’s desire to maintain privacy in her home and the inclination not to permit a property inspection by an unknown person. At the same time, if, as she indicated at the hearing, she wants the most accurate valuation of the subject property, the Assessor’s Office should have the most accurate information about it. This may or may not require a full inspection, but would require the parties to be more collaborative than the testimony indicated they had been previously.

Another method for demonstrating inequity is by showing the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. Garcia offered no evidence of any 2018 sales. There is only one verified 2018 sale (BOR Sale 2) in the record that could be used for a ratio analysis, but more than one 2018 sale is required to demonstrate inequity under the *Maxwell* test. *Id.* at 712: *Crary v. Bd of Review of Boone*, 286 N.W. 428 (Iowa 1939); *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019). Because a showing of the subject’s actual value is also required in an over assessment claim, we will forego further analysis of inequity and turn our focus to that claim.

#### **b. 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)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

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.* The sales comparison method is the preferred method for valuing property

under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). Sale prices of the subject property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). 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.*

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). PAAB is required to consider all of the evidence in the record. *Id.* Under section 441.21(3), the party contesting the assessment generally has the burden of proof. § 441.21(3)(b)(1). “The burden of proof is one of persuasion” based on all the evidence. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 397 (Iowa 2009). The taxpayer may still prevail if it establishes its claims by a preponderance of the evidence. *Id.* at 396. If PAAB determines the grounds for protest have been established, it must then determine the property’s correct value. *Compiano*, 771 N.W.2d at 397 (“[T]he court makes its independent determination of the value based on all the evidence.”).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W. 2d at 783. “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86,88 (Iowa 1977)).

Garcia submitted five comparable properties she believes demonstrate her property is over assessed. However, none of these properties recently sold with the exception of 1202 E Avenue and its sale date is unknown. We give these properties no weight.

The Board of Review submitted six normal sales of properties it believed were comparable in an attempt to support the assessed value. In our opinion, however, these sales do not support the subject’s 2019 assessment and, in fact, indicate the property’s assessment is excessive. Sale 2 is slightly smaller than the subject, but is also newer

and its two-stall attached garage is superior to the subject's tuck-under, one-stall garage plus carport. We find Sale 2 is the most comparable to the subject and suggests the subject's market value is approximately \$175,000. Other sales in the record might suggest an even lower market value for the subject, but we find Sale 2 most persuasive. This is also consistent with Garcia's testimony that roughly within the last year a broker stated the subject would likely not sell for more than \$180,000.

### **Order**

PAAB HEREBY MODIFIES the Grundy County Board of Review's action. PAAB ORDERS the January 1, 2019, assessed value of 1206 E Avenue, Grundy Center shall be set at \$175,000, allocated as \$18,608 to land value and \$156,392 to improvements.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

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.



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Elizabeth Goodman, Board Member



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Dennis Loll, Board Member



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Karen Oberman, Board Member

Copies to:

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