

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

PAAB Docket No. 2019-057-00002R

Parcel No. 15064-52001-00000

Tim Gorton,

Appellant,

vs.

Linn County Board of Review,

Appellee.

Introduction

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on September 26, 2019. Tim Gorton is self-represented and asked the appeal proceed without a hearing. Linn County Assessor Jerry Witt represented the Board of Review.

Timothy and Rose Gorton own a residential property located at 2575 Bullis Drive, Marion. Its January 1, 2019, assessment was set at \$214,300, allocated as \$34,000 to land value and \$180,300 to improvements. (Ex. A).

Gorton petitioned the Board of Review by marking the portion of the form reserved for an error claim stating, "When compared against the sale prices of other similar sized and aged homes, the new assessment is clearly not accurate." Iowa Code § 441.37(1)(a)(4). PAAB finds his error claim essentially asserted the assessment was for more than authorized by law. § 441.37(1)(a)(2). The Board of Review denied the petition.

Gorton then appealed to PAAB again marking the portion of the form reserved for an error claim. However, in addition to an error claim, his plain statement essentially reasserts the property was assessed for more than authorized by law, and appears to

assert that the assessment is not equitable as compared to assessments of other like property. § 441.37(1)(a)(1, 2 & 4).

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 one-story home built in 1998. It has 1421 square feet of gross living area, a walk-out basement with 975 square feet of living-quarter quality finish, a deck with a pergola, a patio, and an attached garage. The improvements are listed in normal condition with a 3-05 Grade (good quality). There is also a small shed built in 2002. The site is 0.224 acres. (Ex. A).

Gorton noted his assessment has increased over \$25,000, or more than 18%, over the last six years. During that time, he has not made any improvements to the subject property. (Ex. 1, p. 20). A notation on the subject's property record card supports Gorton's assertion that no updating had occurred through at least 2017. In his opinion, the subject's assessment should revert to the 2018 assessment of \$140.32 per square foot, or \$199,400. (Ex. 1).

Based on his appeal, it appears Gorton believes the condition of his home is less than normal resulting in an error in the assessment. He contends his property is in fair condition and submitted photographs to support this assertion. The photographs show deferred maintenance in the form of damaged siding, marred kitchen cabinets, and a dented window edge. (Ex. 1, pp. 17-19).

Gorton submitted the following four comparable properties to the Board of Review, which are summarized in the following table. (Exs. F & H).

Comparable	Gross Living Area (SF)	Sale Date	Sale Price	SP/SF
1 - 2285 Hillview Dr	1326	Mar-17	\$180,000	\$135.75
2 - 2250 Hillview Dr	1374	Jul-18	\$189,900	\$138.21
3 - 2415 Copper Dr	1576	May-17	\$195,000	\$123.73
4 - 2220 Addalynn Dr	1420	Feb-17	\$196,000	\$138.03

All of the properties are one-story homes, built between 1995 and 2000. While facially, these properties are of similar size and age to the subject property, the record does not include other features they may possess, such as amount and quality of basement finish or other amenities like walk-out basements, fireplaces, decks, or the amount of garage space compared to the subject property. More importantly, three of Gorton’s comparables sold in 2017, and the record indicates there were newer 2018 sales available for analysis in determining the 2019 assessed value. (Ex. H).

Only one of Gorton’s comparable properties sold in 2018 and could be considered to establish an assessment-to-sale-price ratio. 2250 Hillview Drive has a 2019 assessment of \$190,700; compared to its sale price this indicates a ratio of 1.00. A ratio less than 1.00 suggests properties are assessed for less than their market value, whereas ratios greater than 1.00, suggest properties are assessed for more than their market value. Here, Gorton’s only 2018 sale indicates a ratio that its assessment is at market value.

The Board of Review reported that the subject’s assessment was changed because “all properties were reappraised for the 2019 assessment year,” and a small open porch was removed from the subject’s listing. (Ex. D). It further explained that all

properties that sold between January 2018 and December 2018 were analyzed for the 2019 reappraisal; there were fifteen sales in the subject's area. (Ex. H).

The following table summarizes five of the 2018 sales the Board of Review asserts are the most similar to the subject property; Gorton had also identified Sale 5 as comparable. (Exs. G & H). Gorton reported the 2019 assessed values for each of the sales. (Ex. 1).

Comparable	Gross Living Area (SF)	2018 Sale Price	SP/SF	2019 Assessed Value	AV/SP Ratio
Subject	1421			\$214,300	
1 - 655 S 22nd St	1432	\$212,000	\$148.04	\$196,000	0.92
2 - 685 Deerfield Dr	1430	\$217,500	\$152.10	\$215,400	0.99
3 - 2430 Daleview Dr	1416	\$225,000	\$158.90	\$214,800	0.95
4 - 2505 Bullis Dr	1373	\$218,000	\$158.78	\$207,400	0.95
5 - 2250 Hillview Dr	1374	\$189,900	\$138.21	\$190,700	1.00

All of the sales are one-story homes built between 1995 and 2001, located in the subject's map area (Marion 1027 Res), listed in normal condition, and have a grade rating between 3-05 and 4+10. (Ex. G).

The Board of Review adjusted the comparables for differences between them and the subject property. The adjusted values range between roughly \$220,500 and \$250,300. (Ex. G). However, it appears the adjustments are likely based on cost rather than market reaction. For instance, we question whether the market would recognize a \$300 difference in the lot value between the subject and Sale 2; or a \$974 difference for an eleven-square-foot difference in living area between the subject and Sale 1. Nonetheless, PAAB finds the sales to be comparable to the subject in style, age, size, and amenities. We also note the unadjusted sale prices, and the unadjusted sales price per square foot, bracket the subject's assessed value of \$214,300 and assessed value per square foot of \$150.81.

These 2018 sales indicate an assessed-value-to-sale-price ratio range from 0.92 to 1.00. These ratios indicate that properties like the subject are assessed at, or for slightly less than their market value.

Gorton is critical of the Board of Review's sales and submitted information he found on Zillow.com to support his belief that the properties are superior to the subject,

including exterior and interior photographs. (Ex. 1). The following is a summary of some differences that he highlighted between these comparables and his property.

- 655 22nd Street – 4-season room with cedar walls, French doors, quartz countertops, tiled backsplash, and an above-ground pool¹
- 685 Deerfield Drive – brick ranch with new bamboo flooring, large pantry, and a gazebo
- 2430 Daleview Drive – full wet bar in basement, extended garage
- 2505 Bullis Drive – updated basement carpet, fence, new front stoop
- 2250 Hillview Drive – 3-season porch, new flooring and paint, in-ground sprinkler, and central vacuum

Gorton also noted that almost all of the sale prices of the comparable properties included new appliances. In Gorton's opinion, these sales are misleading because the condition, upgrades, and other features they possess compared to his home must be considered. (Ex. 1). Based on the information Gorton submitted, it appears Sale 4 also has a finished walk-out basement like his property. Sales 1, 2, and 5 appear to have only day-light basements. Additionally, Gorton's property has more basement finish than Sale 1 and significantly more finish than Sales 2 and 4, which would contribute to the difference in value. (Ex. G). Other than identifying differences that he believes exist and are superior to the subject property, Gorton did not make any adjustments to the sales to arrive at a conclusion of value for his property as of January 1, 2019.

Analysis & Conclusions of Law

Gorton contends there is an error in his assessment, the assessment is not equitable as compared with assessments of other like property, and that the subject property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1,2 & 4).

¹ We note that the photos Gorton submitted indicate this is an above-ground pool, which for assessment purposes is treated as personal property and not included in the assessed value. Accordingly, it was not listed by the Assessor as an amenity in Exhibit G.

Gorton asserts there is an error in his assessment contending his property is incorrectly listed in normal condition. In his opinion it is in fair condition, and he submitted photographs demonstrating deferred maintenance. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701–71.20(4)(b)(4). First, we note that the condition rating is a function of depreciation in the assessment process. See IOWA DEP'T REVENUE, 2008 IOWA REAL PROPERTY MANUAL 7-79 to 7-80. Additionally, we find there is insufficient evidence for PAAB to determine if the deferred maintenance, alone, would affect the property's condition rating. Without additional evidence of the overall maintenance and upkeep of the home, we do not find an error in the subject's assessed value. If Gorton believes there are additional factors that would result in a lower condition rating, he may choose to request the Assessor's Office complete an interior inspection of his property.

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). Gorton 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*, 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. The record includes six 2018 comparable sales with ratios between 0.92 and 1.00. These recent sales indicate that the assessments of similar properties are at, or slightly below market value. Although Gorton has demonstrated assessed-value-to-sale-price ratios for some comparables, he must also show the subject property's actual value to complete the ratio analysis. Since 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.

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).

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)).

Gorton submitted four comparable properties that he believes demonstrate his property is over assessed. However, three of his sales occurred in 2017, when the record indicates at least fifteen sales of similar properties occurred in 2018. Because there are newer sales available, PAAB finds the 2017 sales less persuasive.

The Board of Review offered five 2018 sales that are one-story homes of similar age, size, and location to the subject property. Based on its analysis of these sales, it contends the subject property is not over assessed as of January 1, 2019. We agree.

Gorton was critical of the Board of Review's sales, asserting they have superior features and condition compared to his home, which were not taken into account by the Board of Review's analysis. However, we note that Gorton also failed to provide support that the features he identified in the comparable sales substantially impacted their sale prices compared to his property. These sales appear to indicate that Gorton's assessment is in line with the most recent sales and assessments in his area.

Viewing the record as a whole, we find Gorton failed to support his claims.

Order

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

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.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

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Tim Gorton by eFile

Linn County Board of Review by eFile