

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

PAAB Docket No. 2018-025-00081R

Parcel No. 12-13-253-007

Leon Jagim,

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 21, 2018. Leon Jagim was self-represented. Deputy County Assessor Brian Arnold represented the Dallas County Board of Review.

Jagim owns a residential property located at 14804 Brookview Drive, Urbandale, Iowa. The subject property's January 1, 2018 assessment was set at \$583,770, allocated as \$95,000 in land value and \$488,770 in dwelling value. (Ex. A).

Jagim petitioned the Board of Review claiming the assessment was not equitable compared to the assessments of other like property, the assessment was more than the value authorized by law, and there is an error in the assessment. Iowa Code § 441.37(1)(a)(1, 2 & 4) (2018). The Board of Review denied the petition. Jagim then 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) 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 0.36-acre site with a one-story home built in 2014. It has 2052 square feet of gross living area (GLA), a walkout basement with 1570 square feet of living-quarter-quality finish, a deck and a three-car attached garage. The home is listed as superior-quality construction (grade 1+05) and in normal condition. (Ex. A).

This property was the subject of a PAAB appeal in 2015. (Exs. 1, A). PAAB reduced the value of the property from \$556,910 to \$540,000. *Jagim v. Dallas Cnty. Bd. of Review*, PAAB Docket No. 2015-025-00439R (May 16, 2016). Jagim believes that Dallas County is trying to overturn that PAAB decision.

Jagim testified that his newly constructed home cost \$531,660, which included \$85,000 for the lot, construction costs, and overages. (Ex. 1). He testified that he is retired and sought to be economical when he moved into town, noting there were only a limited number of lots available.

Jagim submitted an appraisal completed by Brent Kimble of The Appraisal Company, Urbandale. Kimble opined a July 2014 value of \$535,000. (Ex. 3). Kimble described the subject property's location in Bent Creek, a new development with many homes under construction. He reported limited sales in the area and that most homes

are custom-built by different builders. Kimble notes the subject property has granite countertops, a skylight in the master bath, upgraded appliances, hardwood floors on the main level, central vacuum, and tray ceiling in the living room.

Kimble developed both the cost approach and the sales comparison approach, relying on four 2013 and 2014 sales as well as a 2014 listing. Given the evidence of more recent sales in the record, we give Kimble's appraisal no further consideration.

In an effort to prove his claim, Jagim also compared the percentage increase in total assessed value of the subject property and the sales in the Kimble appraisal. He additionally made comparisons with other one-story homes in the Bent Creek development that were built by the same builder. (Exs. 4-7). He contends his assessment increased 8.96% between 2016 and 2017, while the Kimble's sales experienced an increase of 1.59% to a decrease of 4.28%. (Ex. 4). During that same period, neighboring homes experienced an increase of 1.61% to a decrease of 2.94%. (Ex. 5). Then for January 1, 2018, his assessment decreased by 0.79%, while all of his comparables had no change in their assessed values. He contends the subject property's assessment is an outlier as compared with other properties.

We note that a significant number of the comparables Jagim identified in Exhibits 4 and 5 received increases to their assessments in 2016, whereas the subject property's assessment remained the same between 2015 and 2016. Including those assessment increases would modify the rates of change.

Jagim further noted he never received the 2017 assessment notice until he went to the Assessor's Office, at which time he discovered the deadline had passed for appealing his assessment. (Ex. 1). He testified that he met with the County Assessor, and his 2018 assessment was reduced to \$583,770. He acknowledged he realizes it is too late to appeal his 2017 assessment but argued that his 2018 assessment should be set at \$548,100, thereby representing a 1.5% or \$8100 increase for 2017 with no change thereafter so the subject property assessment is no longer an outlier.

We note there is no information in the record indicating whether any of Jagim's comparable properties recently sold, as might have been demonstrated with their property record cards.

The Board of Review offered ten recent sales of one-story homes in the Bent Creek development. (Exs. D, E). Exhibit D shows the subject property's assessment is within the range of the comparable assessments on a per square foot basis. Arnold referenced the 15009 Plum Drive property, which had been one of the sales in Kimble's appraisal. It sold in 2013 for \$532,559 and again in 2017 for \$573,000. (Exs. A & G). Arnold testified that this demonstrates it appreciated about 8%, which is similar to the subject property's increase in assessed value.

We add that the 2014 and 2018 sales of 14601 Brookview, as well as the 2016 and 2018 sales of 14403 Plum, also show a trend of increasing values. (Ex. E). One exception, however, is the 2013 and 2017 sales of 15505 Plum Drive, which indicated a decline in value of that property.

Arnold noted that when assessments are increased in an area it will not necessarily cause the total assessed values of neighboring properties to increase by the same percentage. He noted improvement value is impacted by the depreciation rates based on condition, and these rates can vary from year to year even though the condition of the improvements may not change. (Ex. F). He testified that the depreciation rate only applies to the improvements so differences in land value can also affect the overall percent change in a property's assessed value. He further noted the percent change in assessments can vary amongst properties because of action taken by an entity outside of the Assessor's Office (e.g., board of review, PAAB, district court). He stated that when a modification order occurs they will make a lump sum adjustment in the property's assessment. But when a re-assessment occurs he noted the Assessor's Office will start with a clean slate in assessing the property that had been modified, which may cause it to go up more than neighboring properties. Arnold stated this is because it received a reduction which the other properties had not received. He suggested this is what occurred with the subject property.

We note only six of the Board of Review Bent Creek sales occurred in 2017. All are one-story homes built in 2013 to 2015. Their assessment/sale price ratios ranged from 0.93 to 1.06, with a median of 1.00. The following table summarizes these sales. (Ex. D).

| Sale | Address | GLA | Bsmt Finish | Grade | Assessed Value (AV) | Sale Price (SP) | AV/SP Ratio |
|------|-----------------|------|-------------|-------|---------------------|-----------------|-------------|
| SP | 14804 Brookview | 2052 | 1570 | 1+05 | \$583,770 | NA | NA |
| 1 | 14408 Brookview | 1807 | 1325 | 2+05 | \$404,070 | \$436,000 | 0.93 |
| 2 | 15009 Plum | 2092 | 1645 | 1+05 | \$546,390 | \$573,000 | 0.95 |
| 3 | 15305 Plum | 2297 | 1997 | 2+05 | \$519,590 | \$535,000 | 0.97 |
| 4 | 15306 Plum | 1874 | 1570 | 1-05 | \$512,590 | \$501,000 | 1.02 |
| 5 | 15505 Plum | 2370 | 2118 | E-10 | \$730,010 | \$690,000 | 1.06 |
| 6 | 14310 Plum | 2068 | 1600 | 2+05 | \$408,470 | \$385,000 | 1.06 |

Sale 3 has significantly more living area, but lower quality construction than the subject property. Sale 5, with the highest assessed value amongst the sales, is dissimilar to the subject property given its executive grade construction, significantly larger living area and its four-car garage. Sale 2 appears to be the most similar to the subject property in living area and quality of construction, but does not have a walkout basement or geothermal heating like the subject. Its assessment is \$37,380 less than the subject property's assessed value.

Analysis & Conclusions of Law

Jagim contends the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1).

Although there is no presumption the assessed value is correct, Jagim bears the burden of proving his claim by a preponderance of the evidence. §§ 441.21(3), 441.37A(3)(a); *Compiano v. Bd. of Review of Polk County*, 771 N.W.2d 392,396-97 (Iowa 2009) (citation omitted). Where the court, or in this case PAAB, has previously fixed the assessed value, a presumption arises that the value continues to be the property's true value in subsequent years unless a change in value is shown. *Metro. Jacobson Dev. Venture v. Bd. of Review of City of Des Moines*, 524 N.W.2d 189, 192-93 (Iowa 1994).

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).

Here, we find Jagim failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

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 (2017) and assessed (2018) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

First, it is insufficient to simply compare the subject property's assessed value to the assessments of other properties or to compare the rate of change in assessment amongst properties. We note again that the majority of Jagim's comparables received assessment increases in 2016, whereas the subject property did not. Including those assessment increases would modify the rate of change.

The record does reflect six 2017 sales of properties located within the subject property's Bent Creek neighborhood, with assessment/sales price ratios ranging from 0.93 to 1.06 and a median of 1.00. A ratio greater than 1.00 indicates a property is over assessed. A ratio less than 1.00 indicates a property is under assessed. Here, the sales on average are assessed at market value.

Further, the *Maxwell* equity analysis cannot be completed as an assessment to sale price ratio cannot be developed for the subject property. The subject property did not recently sell, nor did Jagim offer evidence of its January 1, 2018 market value. A ratio for similar properties as well as the subject property is required in order to determine if the subject property is assessed at a higher proportion of its action value than other sale properties.

Lastly, although it is close, we believe there is sufficient evidence demonstrating a change in value to overcome the presumption arising from our prior decision. 15009 Plum is a similar, if not slightly inferior property that showed an increase in market value between sales in 2013 and 2017. Other sales show similar increases in the market. 15009 Plum's 2017 sale price of \$573,000 suggests our prior valuation of \$540,000 would not accurately reflect the subject's market value as of January 1, 2018.

Viewing the record as a whole, we find Jagim failed prove the subject property's assessed value is inequitable compared with the assessments of other like properties.

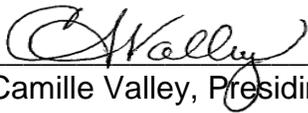
Order

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

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

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, Presiding Officer



Karen Oberman, Board Member

Copies to:

Leon Jagim by eFile

Dallas County Board of Review by eFile