

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

PAAB Docket No. 2019-101-10026R

Parcel No. 14252-54018-00000

**Walter Kraus,**

Appellant,

vs.

**City of Cedar Rapids Board of Review,**

Appellee.

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**Introduction**

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on September 26, 2019. Walter Krause is self-represented and asked the appeal proceed without a hearing. City of Cedar Rapids Assessor Julie Carson represents the Board of Review.

Kraus owns a residential property located at 3500 Bel Air Drive SE, Cedar Rapids. Its January 1, 2019, assessment was set at \$154,100, allocated as \$24,200 to land value and \$129,900 to improvements. (Ex. A).

Kraus petitioned the Board of Review asserting his assessment was not equitable as compared with assessments of other like property and that it was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1 & 2). The Board of Review denied the petition.

Kraus then appealed to PAAB reasserting his claims.

**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 1965. It has 1144 square feet of gross living area, with 310 square feet of rec-room-quality (low quality) basement finish, a three-season porch, two decks, and a two-stall tuck-under garage. The improvements are listed in above-normal condition with a 4+05 Grade (average quality). The Assessor applied 26% physical obsolescence and 5% functional obsolescence to the improvements for being over-improved. There is also a small shed built in 1995 with 60% physical depreciation. The site is 0.279 acres. (Ex. A).

#### Equity Claim

Kraus listed five properties on his Board of Review petition that he believes demonstrate his property is inequitably assessed, which are summarized in the following table. (Exs. 1, C & E).

Comparable	Gross Living Area (SF)	Basement Finish	Assessed Value	AV/GLA SF
Subject	1144	310	\$154,100	\$134.70
1 - 3506 Bel Air Dr SE	1092	360	\$130,700	\$119.69
2 - 3501 Bel Air Dr SE	1232	546	\$139,300	\$113.07
3 - 3424 Bel Air Dr SE	931	374	\$109,800	\$117.94
4 - 3425 Bel Air Dr SE	1176	560	\$133,300	\$113.35
5 - 3512 Bel Air Dr SE	1093	548	\$126,300	\$115.55

Kraus asserts Comparables 1 and 2 are the same layout as his property except for his family room addition. (Ex. 1). Photos of these two comparables indicate they appear very similar to the subject property. (Exs. 5, C). Comparable 1 has a larger lot, whereas Comparable 2 has a smaller lot. They also vary slightly in gross living area and basement finish. He also noted these properties are rentals and have not been well maintained like his property. Because of this, he believes they negatively affect the value of his home.

All of the comparables are listed in normal condition compared to the subject property's listing of above-normal condition; and none have a three-season porch like the subject property. The subject's three-season porch has a cost new of \$12,890. (Ex. A, p. 3). After applying 26% physical depreciation, it adds roughly \$9,540 to the subject's assessment. The difference in condition and the three-season porch explain, in part, why the subject property has a higher assessment compared to these properties.

Importantly, none of these properties sold in 2018. To support an equity claim, an assessment-to-sale-price ratio is developed, which typically compares a prior year sale price (2018) to the appealed assessed value (2019).

The Board of Review submitted three equity comparables summarized in the following table. (Exs. F & G).

Comparable	Gross Living Area (SF)	Basement Finish	Assessed Value	AV/GLA SF
Subject	1144	310	\$154,100	\$134.70
A - 1325 Parkwood Dr SE	1152	420	\$147,000	\$127.60
B - 1220 Hertz Dr SE	1144	504	\$146,000	\$127.62
C - 3925 14th Ave SE	1092	338	\$154,300	\$141.30

All of the Board of Review's comparables are listed in above-normal condition like the subject. They are also very similar in gross living area. Kraus' property has more bathrooms than any of the comparables and is the only one that has a sunroom; Comparable A has a screen porch, but not sunroom. Like Kraus' comparables, none of these have recently sold and a ratio analysis cannot be developed.

### Over Assessment Claim

Kraus submitted five early-2019 sales of properties he believes are similar to his, and compared the sale prices to the assessed values. (Exs. 4, 6-10). The following table summarizes his analysis.

Comparable	Gross Living Area (SF)	Basement Finish (SF)	Assessed Value	Sale Price	SP/ SF	AV/SP Ratio
Subject	1144	310	\$154,100	NA	NA	NA
6 - 2718 14th Ave SE	1066	628	\$136,600	\$126,000	\$118.20	1.08
7 - 3640 14th Ave SE	960	500	\$121,900	\$126,500	\$131.77	0.96
8 - 1107 Brockman Dr SE	1152	192	\$117,300	\$128,500	\$111.55	0.91
9 - 3629 Bel Air Dr SE	1040	1000	\$131,600	\$135,000	\$129.81	0.97
10 - 1110 Crestview Dr SE	1291	820	\$152,600	\$147,000	\$113.87	1.03

In addition to some differences in gross living area and basement finish, all of the properties either lack a garage, or have a smaller garage than the subject property. None have a three-season porch like the subject property, which provides an additional 280 square feet of space. With the exception of Comparable 9, the properties are listed in above-normal condition.

Although these properties were not submitted as equity comparables, and though they sold in early 2019, an assessment/sales ratio can be calculated for them. This ratio though would not typically be used to show inequity because, as previously noted, the prior year's sale price (2018) is compared to the current year assessment (2019). Rather, comparing the sale price that occurred during the same year as the assessment could be an indication of how accurate assessments were for that given year. A ratio less than 1.00 suggests a property is assessed for less than its market value, whereas a ratio greater than 1.00 suggests it is assessed for more than its market value.

Kraus did not make any adjustments to the sales to arrive at a conclusion of value for his property as of January 1, 2019.

The Board of Review also submitted three 2018 sales that it asserts support the subject's assessed value. (Exs. H, J-K).

Comparable	Gross Living Area (SF)	Basement Finish (SF)	Assessed Value	Sale Price	SP/SF	AV/SP Ratio
Subject	1144	310	\$154,100	NA	NA	NA
D - 1357 Hertz Dr SE	1144	492	\$137,500	\$160,900	\$140.65	0.85
E - 1329 36th St SE	1092	511	\$134,800	\$142,000	\$130.04	0.95
F - 1274 33rd St SE	1165	400	\$147,300	\$148,000	\$126.44	1.00

All of the sales have similar age, condition, and grade ratings. Comparables D and E also appear facially similar to the subject in photos. However, none of the sales have three-season porch like the subject, but Sale 1 does have a screened porch. The Board of Review adjusted the sales for differences between them and the subject property and concluded a value range of roughly \$155,000 to \$177,500. (Ex. J). Facially, the adjustments appear to be reasonable but are not explained and appear to contain some inconsistencies; this is likely due to the fact that they were made using cost adjustments from the IOWA REAL PROPERTY APPRAISAL MANUAL or other cost factors. For instance, all of the sales are listed as having two bath fixtures compared to the subject having three bath fixtures, but the adjustments vary from \$900 to \$2400 for this difference and may not reflect actual market reactions for these components.

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

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

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). Kraus 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. Three 2018 sales in the record indicate ratios between 0.85 and 1.00. Based on this sample, it would appear that there is a trend of assessments being less than market value. The median (0.97) and mean (0.99) assessment-sales ratio for Kraus' early-2019 sales also appear to indicate that properties are generally assessed at or near their market value. However, an equity claim also requires a showing of the subject's actual value, which is also required in an over assessment claim. Therefore, 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)).

Kraus submitted five 2019 sales that he believes demonstrate his property is over assessed. The properties had sale prices between \$126,000 and \$147,000, all less than his assessed value of \$154,100. In addition to differences in gross living area and basement finish, however, all of the properties either lack a garage or have a smaller garage than the subject property. None of Kraus' sales appear to have a three-season porch like the subject property. Without adjustment for these differences, we do not find

they offer a reliable reflection of the subject property's fair market value as of January 1, 2019.

The Board of Review offered three 2018 sales that are one-story homes similar in age, condition, and grade ratings 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.

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

### **Order**

PAAB HEREBY AFFIRMS the City of Cedar Rapids 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.



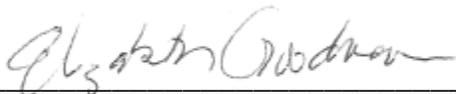
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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

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