

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

PAAB Docket No. 2019-091-10008R  
Parcel No. 39380000350 and 39380000352

**Joshua Massman and Rebecca Anderson,**

Appellants,

vs.

**Warren County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 12, 2019. John Judisch, attorney, represented Massman and Anderson. Chief Deputy County Assessor Tim Konrad represented the Warren County Board of Review.

Joshua Massman and Rebecca Anderson (hereinafter referred to as Massman) own a residential property located at 320 North 6th Street, Carlisle, Iowa. The subject property consists of two separate but adjoining parcels that have been appealed together. The following table summarizes the subject properties January 1, 2019 assessments. (Exs. A-1 and A-2).

<b>Parcel #</b>	<b>Assessed Land Value</b>	<b>Assessed Improvement Value</b>	<b>Total Assessed Value</b>
39380000350 (Parcel A)	\$35,000	\$159,000	\$194,000
39380000352 (Parcel B)	\$24,000	\$0	\$24,000

Massman petitioned the Board of Review claiming there was an error in the assessment under Iowa Code § 441.37(1)(a)(4) (2019). His error claim asserted the assessment was for more than the value authorized by law. § 441.37(1)(a)(2). The

Board of Review lowered the assessment of Parcel A from \$205,800 to \$194,000 but did not change the assessment of Parcel B.

Massman then appealed to PAAB asserting the property's assessment was inequitable and it was assessed for more than the value authorized by law.

§ 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 701–71.126.2(2-4). New or additional evidence may be introduced. *Id.* 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).

### **Findings of Fact**

Parcel A is 0.262 acres and improved with a one-story home. Parcel B is a 0.208-acre site and is valued as vacant land. (Ex. A2).

Subsequent to the PAAB contested case hearing, the Warren County Assessor's Office re-inspected the subject properties because there appeared to be discrepancies between the property record card (PRC) listings, additional exhibits Massman provided, and testimony elicited at the hearing. A revised PRC for Parcel A was then admitted into the record; indicating changes should be made to the gross living area (GLA); grade; condition; physical depreciation; and Total Assessed Value. (Ex. H). No revisions were made to Parcel B.

The following table summarizes the 2019 assessment prior to and after the Board of Review corrected listing errors.

<b>Parcel A Exhibit</b>	<b>GLA</b>	<b>Grade</b>	<b>Condition</b>	<b>Physical Depreciation</b>	<b>Assessed Value</b>
A-1	2030	3+05	NML	29%	\$194,000
H	1873	3-05	BL NML	34%	\$173,600

Parcel A's dwelling was built in 1950 and has 1873 square feet of gross living area, no basement, two concrete patios, a 3-season porch, and a two-car garage. The dwelling's suggested revised grade is 3-05 (good-quality construction) in below-normal condition. A detached garage is listed on Parcel A. However, an overhead aerial photograph of the parcels show the detached garage and driveway are located on Parcel B. (Ex. F).<sup>1</sup> The recommended revised 2019 assessment for Parcel A is \$173,600. (Ex. H).

Massman purchased the subject properties from an estate in 2017 for \$155,000. Massman submitted a Report and Inventory filed in connection with closing the estate, wherein the executor of the estate listed the value of the seller's real estate holdings at \$167,500. (Ex. 7). Massman also offered a mortgage appraisal prepared by Troy M. Richards of Skinner Appraisal Services, Altoona. (Ex. 10). Richards opined an August 2017 value for the subject property of \$160,000. The appraisal indicates that based on Richards review of a standard purchase agreement, the subject's 2017 sale was arms-length. Konrad disagreed. The appraisal valued the subject parcels as a single operating unit and did not opine or allocate a value opinion for the individual parcels.

Ultimately, Massman argues the combined value of the subject parcels as of 2017 should have been \$155,000, which he agrees should be increased by 10% to arrive at his requested combined valuation of \$165,000 for 2019.<sup>2</sup> (Ex. 1, p. 2). He believes the value should be allocated as follows: \$146,850 to Parcel A and \$18,150 to Parcel B.

Richards included four comparable sales from 2016 and 2017 in his appraisal. The following table summarizes these sales. (Ex. 10).

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<sup>1</sup> This is consistent with a property description in Richards' appraisal. (Ex. 10).

<sup>2</sup> Massman does not address the fact that a 10% increase from \$155,000 would actually result in a valuation of \$170,500.

Sale	Address	GLA	Age	Sale Date	Sale Price	Adjusted Sale Price	Assessed Value	AV/SP Ratio
Subject	320 N 6th St, Carlisle	1894	67		NA	N/A		NA
1	7951 SE Vandalia Dr, Runnells	2088	53	5/17	\$190,000	\$159,150	Not Available	NA
2	1110 N C St, Indianola	1937	68	9/16	\$179,000	\$178,500	\$178,400	1.00
3	130 N 3rd St, Carlisle	1200	117	8/17	\$120,000	\$155,850	\$106,300	0.89
4	70 Pennsylvania St, Carlisle	1482	40	6/17	\$163,000	\$161,250	\$179,500	1.10

All properties were one-story homes and listed as similar to the subject in quality of construction. Sales 1 and 2 were similar in size, age, and lack of basements but were not located in Carlisle. The Board of Review was critical of Richards for using two sales that are located outside of Carlisle. Richards reported these properties were used for comparison because he found no recent sales in Carlisle of properties that lacked basements. Therefore, it was necessary to go outside of the subject's immediate neighborhood for comparables. We note even the Board of Review was unable to find comparable properties that lacked a basement like the subject. Additionally, an over assessment claim does not require comparable properties to be located within the same taxing jurisdiction. *Carlton Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). Additionally, we note Richards made no adjustments for differences in location, which could mean no differences in location existed or that he did not account for differences. Either way, we note comparables that are less similar in location and proximity to subject are typically given less weight or consideration.

Comparable 2 had the most similar site size to the subject.

While Comparable 3 had the smallest GLA, like the subject, it lacks a basement and was located in Carlisle. It is also significantly older than the subject, and Richards adjusted it upward for age.

Comparable 4 was also smaller in size and had a basement. Comparables 1, 3, and 4 all closed in 2017. Comparable 2 closed in 2016 and Richards made no time adjustment to the sale.

The Board of Review submitted four 2018 sales and compared the properties to the subject based on their assessed value per square foot, their sales price per square foot, and their assessed-value-to-sales-price ratios. (Ex. D). The following table summarizes these sales. (Exs. D & H).

Sale	Address	GLA (SF)	Year Built	Sale Date	AV/SF	Assessed Value (AV)	2018 Sale Price (SP)	AV/SP
Subject	230 N 6 <sup>th</sup> St	1894	1950		\$104.33	\$197,600	NA	NA
1	535 Ash St	1253	1963	7/2018	\$109.10	\$136,700	\$160,000	0.85
2	330 N 4 <sup>th</sup> St	1170	1949	2/2018	\$111.97	\$131,000	\$139,000	0.94
3	625 Elm St	1127	1953	8/2018	\$127.06	\$143,200	\$152,000	0.94
4	730 N 5 <sup>th</sup> St	876	1957	10/2018	\$151.83	\$133,000	\$156,000	0.85

In Konrad's opinion these were the best comparables available for the subject due to their location in Carlisle and being similar in age. We note all of the comparables were nearly half the gross living area of the subject and all the comparables had basements. In combination, these differences would cause the comparables to have a higher assessed value per square foot relative to the subject. None of the comparables were adjusted for differences between them and the subject property to arrive at an opinion of value as of January 1, 2019.

Despite their differences, however, we note three of the four sale prices exceed the amount Massman indicates is the correct value for Parcel A. Sale 4 has significantly less total finished area (inclusive of above-grade and below-grade finished area) than the subject, a slightly smaller detached garage, and no three-season porch. Its sales price exceeds the amount Massman is requesting for Parcel A, even though Parcel A offers some superior amenities.

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

Massman contends the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2).

There is no presumption 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). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted). PAAB does not find the burden has shifted because the appraisal and sale of the subject are dated and do not allocate value to the respective parcels. However, the Board of Review admits Parcel A is over assessed and therefore we find Massman’s claim, relative to that parcel, is established.

To prove inequity, the evidence must 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 Massman failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, a taxpayer may also show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

Because the *Maxwell* test requires a showing of the subject property’s actual market value and Massman’s over assessment claim requires the same showing, we forgo further equity analysis and turn to the over assessment claim.

Massman asserts that the subject property is assessed for more than authorized by law, as provided under Iowa Code section 441.37(1)(a)(2). In an appeal alleging the property is assessed for more than the value authorized by law, the evidence must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Soifer*, 759 N.W.2d at 780 (citation omitted).

The Board of Review appears to agree Parcel A’s assessment is excessive. After the PAAB hearing, it inspected the property and submitted a modified property record card for Parcel A showing a reduction in value from \$194,000 to \$173,600. Therefore, we conclude our only remaining task is to determine Parcel A’s correct value.

*Compiano*, 771 N.W.2d at 397 (indicating that when the grounds of protest have been established, the next task is to determine the property's value or correct assessment).

The subject property's 2017 sale was from an estate, which without further information may or may not be a normal transaction. In his appraisal, Richards considered the 2017 sale was arm's-length. The Board of Review did not submit any information into the record to dispute the value of the subject property in 2017, but did indicate that they did not rely on the subject sale price for the 2019 assessment because it was an estate sale and more recent sales in Carlisle were available. Due to the date of the appraisal, and the even older sales used in it, we do not believe that the Richards appraisal conclusively establishes the subject's market value as of January 1, 2019; nevertheless, it offers some reliable evidence of the property's recent value.

Regarding the Board of Review's more recent sales, with the exception of being located in the same city as the subject, they lack similarity in design, size, and basement as compared to the subject. Nonetheless, we find those sales tend to suggest the requested value for Parcel A – \$146,850 – is below its market value.

Although Massman's purchase price and appraisal indicate the 2017 value was less than the current assessment, no evidence was submitted showing the correct value as of January 1, 2019. Even Massman recognizes the superior market conditions present in 2019 compared to 2017 because he suggested an upward 10% adjustment to take into account this difference in time. We recognize that Massman has not provided evidence demonstrating that a 10% adjustment is an accurate reflection of market changes. While we have no reason to conclude Massman's evidence is not competent evidence of the subject's value in 2017, we do not find Massman's requested values are reliable or competent evidence of value as of January 1, 2019, because the 10% adjustment has no basis in fact and the values were not arrived at through recognized appraisal methodology consistent with section 441.21.

Although we conclude the evidence demonstrates Parcel A is over assessed, we are unable to come to the same conclusion for Parcel B. But for the assessment, there is no other evidence in the record independently valuing or allocating value specifically to Parcel B. Because of this and the absence of support of Massman's market adjustment, we cannot determine whether Parcel B's 2019 assessment is excessive or

its correct value. Nevertheless, we recommend Massman, in conjunction with the Assessor, investigate the feasibility and desirability of combining Parcels A and B for assessment purposes considering the two parcels are used together and appear to have improvements spanning the parcel lines. § 428.7 (“[D]escriptions may be combined for assessment purposes to allow the assessor to value the property as a unit.”). Alternatively, if the parcels are not combined, the Assessor should investigate whether the improvement value has been adequately allocated between the parcels because the detached garage, which connects via a metal-roofed breezeway to the house, appears to be located on Parcel B but its value is attributed to Parcel A. (Exs. A & 10, parcel map).

Therefore, viewing the record as a whole, we find Massman failed to show his property is inequitably assessed. The record does demonstrate Parcel A is assessed for more than authorized by law, but we find the most reliable evidence of the property’s value in the record is the post-inspection assessment record submitted by the Board of Review.

### **Order**

PAAB HEREBY MODIFIES in part and AFFIRMS in part the Warren County Board of Review’s action.

Based on the foregoing, we find the property should be valued as follows:

Parcel #	Assessed Land Value	Assessed Improvement Value	Total Assessed Value
39380000350 (Parcel A)	\$35,000	\$138,600	\$173,600
39380000352 (Parcel B)	\$24,000	\$0	\$24,000

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 sections 441.37B and Chapter 17A.19.



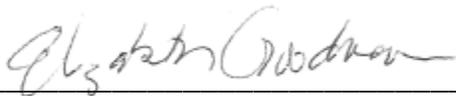
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Dennis Loll, Board Member



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