

PROPERTY ASSESSMENT APPEAL BOARD

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-057-00030R

Parcel No. 15311-51002-00000

Mark Mentzer,

Appellant,

vs.

Linn County Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on August 22, 2019. Mark Mentzer was self-represented. Linn County Chief Deputy Assessor Tami McFarland represented the Board of Review.

Mark Mentzer owns a residential property located at 5504 Old River Road, Ely. The property's January 1, 2019 assessment was set at \$184,500, allocated as \$50,300 in land value and \$134,200 in dwelling value. (Ex. A).

Mentzer petitioned the Board of Review contending the assessment was not equitable compared to the assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). (Ex. C). The Board of Review denied the petition. (Ex. B). Mentzer reasserted his claim to PAAB, and also claimed the property is 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-e) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(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(3)(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. *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. § 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 split-level home built in 1967. It has 1150 square feet of gross living area, a full walk-out basement with 770 square feet of living-quarter quality finish, a patio, and an attached garage. Mentzer questioned the subject's property record card which lists Deck #1 and Deck #2. McFarland explained that Deck #1 is a 4-foot overhang that is located in front of the garage and Deck #2 is the stamped concrete patio. It is listed in normal condition with average-quality construction (4+10 grade). The site is 1.060 acres. (Ex. A).

Mark Mentzer testified that his property fronts on a gravel road with heavy traffic due to its proximity to three county parks. He testified that the subject's street has a traffic count of 356 vehicles per day, and a recent traffic count by the county had 532 vehicles during one single day. He asserts that two real estate agents recently told him that he would need to market his home either after a rain or during the winter when dust from the gravel road would not be as big of an issue. In addition, he reported the agents believe the gravel road would negatively impact the subject's market value by 10% to 15%.

Mentzer offered three comparable sales, summarized in the following table. (Ex. 1).

Comparable	Address	Style	GLA	Sale Price
Subject	5504 Old River Rd	Split Level	1150	
1	1311 Oak Dr SE	Split Foyer	1556	\$162,000
2	3613 Big Bend Rd	2 Sty	1920	\$147,000
3	9209 Feather Ridge Rd	1.5 Sty	1555	\$175,000

The Board of Review was critical of these sales and noted that all three are different in design and size. McFarland said that she searched for comparables, but found no recent, arm's-length comparable sales in the subject's area.

Mentzer contends these properties are comparable to the subject and testified that Comparable 2 was the most similar in location and should be given most consideration. The Board of Review was critical of this comparable because it was a foreclosure sale and therefore believed no consideration should be given to it. Mentzer argued that regardless of being a foreclosure sale, this property is most similar in location, larger in size, and had been remodeled. This last statement appears to be in conflict with the multiple listing sheet he submitted, which stated it was in need of TLC and was sold in "as is" condition. (Ex. 1). Further, this property has the greatest amount of above-grade living area of any property sale in the record, but its sales price is substantially less than all other property sales. This suggests the sales price was discounted.

In noting that Comparable 2 is in the most similar location to the subject, Mentzer stated it is within 2 miles of the subject. The record does not include a map of the subject and comparable locations. By inference, we understand Mentzer's testimony to mean that the other comparables are located more than 2 miles from the subject. From the limited information in the record detailing the subject and comparables' locations, we recognize that none of the comparables are located in the same zip code as the subject. (Compare Exs. 1, A). Comparable 2 is the only property located in the subject's assessing jurisdiction (Putnam 1800 Res). (Ex. G).

Comparables 1 and 3 are believed to be arms-length sales and sold very close to the January 1, 2019 assessment date. The comparables appear to be of similar age and have similar site sizes. In addition to differences in size and style, however, we note that there are also differences in basement size and finish. Comparable 1 has 325 square feet of basement finish of unknown quality, compared to the subject's 770 square feet of living-quarter quality basement finish that includes a walk-out. Comparable 3 lacks any basement finish and only has a single stall, detached garage. No adjustments were made to account for these differences between the comparables and the subject property.

The Board of Review offered three comparables, which are summarized in the following table. (Ex. H).

Property	Address	GLA	2019 AV	AV/GLA
Subject	5504 Old River Rd	1150	\$184,500	\$160.43
A	2182 Douglas Dr	1140	\$182,400	\$160.00
B	1889 E Berry Rd	1188	\$193,100	\$162.54
C	1562 Apple Creek Dr	1200	\$192,500	\$160.42

The Board of Review contends these comparables demonstrate equity because the subject has a similar assessed value per square foot of gross living area. These three properties are also similar in design, size, and basement finish. None of the properties are known to have recently sold and they are not adjusted for differences between them and the subject property to form an opinion of market value for the subject. All are located in different neighborhoods than the subject and it is unknown if any front a gravel road.

Analysis & Conclusions of Law

Mentzer asserts the subject property is inequitably assessed and assessed for more than authorized by law. § 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). Mentzer

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

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)).

Mentzer offered three comparable sales. Iowa Code states that the 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). Sale prices of properties in abnormal transactions, such as foreclosure or other forced sales, must not be considered or must be adjusted to eliminate the factors which distort market value. *Id.*

Sale 2 was not a normal transaction and was not adjusted for its foreclosure sale. Therefore, we find this sale to be unreliable and give it no weight.

Further, as pointed out by the Board of Review, Sales 1 and 3 were different in design and size to the subject. We also note differences in layout, basement size and finish, and other amenities. These comparables are recent sales, similar in age, similar in site area, and have lower unadjusted sale prices. However, without adjusting the sale prices for the aforementioned differences we find they do not demonstrate the subject's assessment is excessive or the property's correct value. Mentzer offered no other evidence to support his over assessment claim. Typically, market value is demonstrated with a competent appraisal or a comparative market analysis, considering, at minimum, the sales comparison approach to value.

Viewing the record as a whole, we find Mentzer failed to show his property is inequitably assessed or assessed for more than authorized by law.

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.

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.

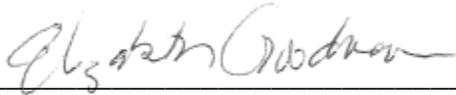
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Dennis Loll, Board Member



Karen Oberman, Board Member



Elizabeth Goodman, Board Member

Copies to:

Mark Mentzer by eFile

Linn County Board of Review by eFile