

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

PAAB Docket No. 2018-101-10041R

Parcel No. 14204-36001-00000

Mark and Lynn Schliemann

Appellants,

vs.

Cedar Rapids Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 4, 2019. Mark and Lynn Schliemann were self-represented. City of Cedar Rapids Appraiser Nick Mehmen represented the Cedar Rapids Board of Review.

Mark & Lynn Schliemann own a residential property located at 1030 9th Street NW, Cedar Rapids. The property's January 1, 2018 assessment was set at \$74,600, allocated as \$19,800 in land value and \$54,800 in dwelling value. (Ex. A).

The Schliemanns petitioned the Board of Review contending the assessment was not equitable compared to the assessments of other like property and there was an error in the assessment. Iowa Code § 441.37(1)(a)(1 & 4) (2018). The Board of Review denied the petition.

The Schliemanns reasserted their inequity claim to PAAB, and also claimed the property is assessed for more than 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 (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-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 one and a half-story home built in 1900. It has 979 square feet of gross living area, an open porch, an enclosed porch, a patio, and a one-car detached garage. It has only a crawlspace. It is listed in very-good condition with average-quality construction (4-05 grade). The site is 0.147 acres. (Ex. A).

Lynn Schliemann contends the subject should not be listed in very-good condition because it has an older kitchen and bathroom. She stated no additional work had been completed on the subject to warrant an increase since the initial remodeling was completed after their purchase and its listing was changed to normal condition by the Assessor. Nick Mehmen testified that the Assessor's Office should probably inspect the subject property to verify its listing considering Schliemann's testimony.

The Schliemanns listed three addresses on their Board of Review petition, and attached property record cards for each of these properties. (Ex. C). Lynn Schliemann discussed the properties they selected and compared them to the subject property. The three properties submitted by the Schliemanns are summarized in the table below.

| Property | Address | Site | Garage | Condition | Gross Living Area (GLA) | Assessed Value (AV) |
|----------|----------------|-------|--------|-----------|-------------------------|---------------------|
| Subject | 1030 9th St NW | 0.147 | 1 Det | V Gd | 979 | \$74,600 |
| A | 424 9th St NW | 0.054 | None | NML | 1125 | \$45,800 |
| B | 417 9th St NW | 0.044 | None | BL NML | 1061 | \$51,200 |
| C | 218 9th St NW | 0.114 | 1 Det | NML | 1247 | \$59,300* |

*Corrected for misstated assessed value on petition.

Comparable B sold in December 2017 for \$21,000, but is listed in below normal condition as compared with the subject's very good condition. Notes on the property record card indicate a permit was taken out on this property in March 2018 and the house was gutted for remodeling. The Board of Review was also critical of Schliemanns' comparables for their differences in site size and lack of garages. (Ex. I).

The Board of Review offered three properties for comparison to the subject. (Ex. F). The following table summarizes these properties.

| Property | Address | Cond/Dep | GLA | 2018 AV | AV/GLA |
|----------|----------------|----------|------|----------|---------|
| Subject | 1030 9th St NW | VG/45% | 979 | \$74,600 | \$76.20 |
| 1 | 806 H Ave NW | VG/42% | 1057 | \$80,700 | \$76.35 |
| 2 | 1412 5th St NW | VG/45% | 1052 | \$76,900 | \$73.10 |
| 3 | 712 8th St NW | ANML/42% | 1004 | \$81,700 | \$81.37 |

These properties have similar square footage, condition, and depreciation. They have similar assessed values to the subject on a per square foot basis, which the Board of Review contends demonstrates the subject property is equitably assessed. There is no indication in the record that any of these properties recently sold. (Ex. F-G).

The Board of Review also submitted three sales, two of which occurred in 2017 leading up to the assessment date at issue (Comparables E & F). (Ex. C). The information provided is summarized in the following table. (Ex. C).

| Property | Address | Sale Price (SP) | Sale Date | Gross Living Area GLA | Assessed Value (AV) | Adjusted SP | AV/SP Ratio |
|----------|----------------|-----------------|-----------|-----------------------|---------------------|-------------|-------------|
| Subject | 1030 9th St NW | NA | NA | 979 | \$74,600 | NA | NA |
| D | 812 9th St NW | \$93,000 | Jul-16 | 972 | \$78,700 | \$88,835 | NA |
| E | 511 9th St NW | \$85,000 | Jul-17 | 1103 | \$74,000 | \$85,528 | 0.87 |
| F | 427 9th St NW | \$84,000 | Sep-17 | 1103 | \$69,400 | \$89,119 | 0.83 |

The Board of Review adjusted each sale to account for differences between them and the subject property. The subject's assessed value falls below the adjusted sale prices of the two comparables. The mean and median assessment/sale price ratio for these sales is 0.85.

Analysis & Conclusions of Law

The Schliemanns believe their 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). The Schliemanns 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 (2017 sales) and assessed values (2018 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value.

The Schliemanns submitted comparables, but only one had recently sold. While its assessment/sale price ratio is 2.44, we do not find it similar to the subject due to its inferior condition, smaller site, and lack of garage.

The Board of Review submitted three sales, two occurring in 2017. Their assessment/sale price ratios are 0.83 and 0.87. A ratio greater than 1.00 indicates a property is assessed for more than its market value. A ratio less than 1.00 indicates it is assessed for less than its market value. Here, it indicates the similar sales are under assessed.

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

First, it is not sufficient to simply compare other properties' assessments to succeed in an 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. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). 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).

The Schliemanns did not offer any evidence of the market value of the subject property as of January 1, 2018. The Board of Review, however, offered two 2017 sales (Comparables E & F) and adjusted them for differences between them and the subject property. (Ex. C). These sales resulted in indicated values of \$85,528 and \$89,119, which is higher than the subject property's current assessment.

Viewing the record as a whole, we find the Schliemanns failed to show their property is inequitably assessed or over assessed.

We further note, based on the testimony from Lynn Schliemann and Mehmen regarding the subject property's condition listing, we suggest the Schliemanns contact the Cedar Rapids Assessor's Office and request an inspection of the subject property to ensure it is properly listed.

Order

PAAB HEREBY AFFIRMS the Cedar Rapids 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.

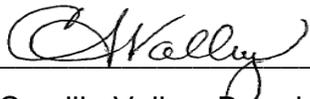
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2018).



Dennis Loll, Board Member



Karen Oberman, Board Member



Camille Valley, Board Member

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City of Cedar Rapids Board of Review by eFile