

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

PAAB Docket No. 2019-007-10034R

Parcel No. 9014-35-254-012

**Chad Schwartz,**

Appellant,

vs.

**Black Hawk 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 30, 2019. Chad Schwartz was self-represented. Attorney Michael Treinen represented the Black Hawk County Board of Review.

Chad Schwartz owns a residential property located at 1405 W Lone Tree Road, Cedar Falls. The property's January 1, 2019, assessment was set at \$145,080, allocated as \$27,450 in land value and \$117,630 in dwelling value. (Ex. A).

Chad Schwartz 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). The Board of Review denied the petition.

Schwartz appealed to PAAB reasserting his inequity claim. He also claimed the property is assessed for more than the value authorized by law and there is error in the assessment. § 441.37(1)(a)(1, 2 & 4).

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 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. *Id.* 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 1964, with an addition in 2002. It has 1430 square feet of gross living area, a 1040-square-foot basement, two decks, and an enclosed porch. It is listed in normal condition with average quality construction (grade 4+05). In addition to physical depreciation, a 15% obsolescence adjustment was applied to the improvements. The site is 0.479 acres. (Ex. A).

Schwartz contends the assessment should be lowered to the 2017 value of \$130,000.

Schwartz believes there is an error in his assessment because the property does not have a full basement. Lori Schmidt, an appraiser with the Linn County Assessor's Office, testified for the Board of Review. She explained the property record card reflects there is only basement area under the original portion of the home, but that there is no basement under the addition. The basement area is listed as 1040 square feet, which is the area of the main part of the home prior to the addition. (Ex. A).

Schwartz also believes his property should be listed in below-normal condition rather than normal condition. Schwartz testified the house has not had many improvements since his previous appeal to PAAB in 2011; and in fact, is in worse condition because he has not had time to fix the deferred maintenance issues. For the 2011 appeal, the Assessor's Office inspected the property in April of 2013 and

suggested the property be listed in below normal condition. (*Schwartz v. Black Hawk Cnty. Bd. of Review*, PAAB Docket 11-07-1490). Based on that 2013 inspection, the subject property's condition rating was changed from normal to below-normal and valued at \$145,910. (Ex. A, p. 4). The Board of Review noted that subject's total assessment was subsequently lowered to \$130,000 in 2015. (Ex. D). Schwartz believes the Board of Review ignored the 2013 finding that lowered the condition of his home to below-normal. In his opinion, this is "not a good practice".

Schwartz submitted photographs to support his belief of the property's condition. Ex. 8). He specifically noted the deteriorated fencing, foundation settlement, roof shingles, old flooring, bathroom, and weeds in an uneven yard. We note he did not include any photographs of other living areas such as the kitchen, living room, or bedrooms to demonstrate these areas also suffer from deferred maintenance to support his claim that the entire property is in below-normal condition.

The Board of Review explained the condition rating was changed to normal as a result of a county-wide 2019 revaluation, which included an inspection in 2018 by Schmidt. (Exs. A, p. 4; & D). Schmidt testified that during her inspection she did not see any holes in the drywall. In her opinion, Schwartz's home is in normal condition for its age. Although she also testified that in her opinion the subject's bathroom is in less than normal condition. The 15% obsolescence adjustment to the assessed value reflects the condition of the bathroom. Notes on the property record card indicate the floor coverings are newer except in the kitchen and drywall has been repaired except in an old bathroom. (Ex. A). Lastly, Schmidt noted that fencing and landscaping are not assessed.

Schwartz submitted seventeen properties he asserts are comparable and he believes show his property is over assessed. (Exs. 3-25). PAAB notes many of these properties are different in design, age, size, and features, and for this reason we give them no consideration. (Exs. 4-5, 7, 9-13, 16-17, 21, 23-25). Six properties that we find most similar to the subject are summarized in the table below. (Exs. 3, 6, 14, 18-19, 22).

Comp	Address	Year Built	Gross Living Area (GLA)	Bsmt Size	Sale Date	Sale Price	2019 Assessed Values
SP	Subject	1964	1430	1040	NA	NA	\$145,080
1	1325 Western Ave	1974	1008	1008	12/2016	\$173,000	\$143,920
2	3003 Hiawatha Rd	1971	984	984	NA	NA	\$126,960
3	428 Longview St	1955	1172	1172	2/2019	\$105,000	\$118,860
4	1114 Clair St	1950	1200	640	8/2017	\$137,000	\$129,110
5	2920 Center St	1952	1052	932	5/2018	\$113,400	\$113,660
6	1503 W Lone Tree Rd	1949	1390	756	NA	NA	\$134,120

Four of the properties sold between 2016 and 2019. Schwartz did not adjust the sales to account for differences to the subject property to conclude an opinion of actual value as of January 1, 2019.

The subject has the highest assessed value compared to these properties but also has the largest gross living area. Schwartz contends it makes no sense that his property's assessment increased 11.6% in 2019, whereas many neighbors saw no increase or very minor increases. (Ex. 20). We note changes in the assessments of other nearby properties is insufficient evidence to support a claim of over assessment.

Schwartz discussed the land value of his property as compared to other properties. He noted 1226 W Lone Tree is being valued lower per acre than his property. (Ex. 20). 1226 W Lone Tree's site is roughly five times larger than Schwartz's. All else being equal, a larger site would have a lower value per acre than a smaller site. Additionally, while 1226 W Lone Tree was valued on a per-acre basis because of its size, Schwartz's property was valued using the front-foot method. (Ex. D).

For Schwartz's benefit, we note his land is valued on a front-foot basis at \$225 per front foot. (Exs. A & D). According to the Board of Review, properties on Hiawatha Road, Minnehaha Lane, Tomahawk Lane, and Pocahontas Road, as well as those on W Lone Tree Road, are valued using this same method. (Ex. D). Thus, when Schwartz is comparing per-acre prices, these values are not the method used to establish his assessment and could therefore give the appearance of inequity. In fact, the Assessor used the same front-foot price for his property as well as neighbors and then applied

depth factors and other excess land adjustments. As an example, 1325 Western Avenue has an identical amount of front footage as the subject and its assessed land value slightly exceeds that of the subject because it has greater depth. (Ex. 3).

The Board of Review noted there were ten sales located in subject's immediate map area during 2017-2018. Based on these sales, it reported a median assessed-value-to-sale-price ratio of 97.8% for the subject's map area. (Ex. D). A ratio below 1.00 indicates a trend of under assessment and a ratio over 1.00 indicates a property may be over assessed.

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

Schwartz contends the subject property is inequitably assessed, over assessed, and that there is an error in the assessment. § 441.37(1)(a)(1, 2, & 4).

Schwartz claims there are errors in his assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations." Iowa Admin. Code R. 701-71.20(4)(b)(4).

First, he asserts his assessment reflects a full basement, when there is not. The Assessor's Office confirmed the subject is not being assessed for a full basement.

Second, Schwartz asserts his property is in below-normal condition and submitted photographs in support of this claim. However, the majority of the photographs show deferred maintenance items on the exterior of the home which are not assessed, such as fencing and landscaping. The only interior photographs were of the bathroom, which has been noted by the Assessor's inspection as being below-normal and a 15% obsolescence adjustment has been applied to his assessment to reflect this. There were no other interior photographs demonstrating that the remainder of the home suffers from similar deferred maintenance. Although the property was previously found to be in below-normal condition, this finding was the result of an inspection six years prior to the assessment date at issue. We find Schmidt's testimony from the most recent inspection more persuasive.

Accordingly, we do not find an error in the assessment.

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). Schwartz believes his land value assessment is too high in comparison to neighboring properties on a per-acre basis.

Iowa Courts have concluded the “ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable.” *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956); *White v. Bd. of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Thus, a comparison of land values only would not normally be sufficient to establish inequity.

Further, we find the evidence here indicates a uniform assessing method was used to value similarly situated properties. Although the much larger site at 1226 W Lone Tree was valued on a per-acre basis, the Board of Review stated smaller sites, like the subject, were valued on a per-front-foot basis, which is a recognized method in the IOWA REAL PROPERTY APPRAISAL MANUAL. MANUAL pp. 2-6 to 2-23, available at [https://tax.iowa.gov/sites/default/files/idr/documents/2LANDVALUATIONSECTION\\_0.pdf](https://tax.iowa.gov/sites/default/files/idr/documents/2LANDVALUATIONSECTION_0.pdf). 1325 Western Ave has the identical amount of front footage and its assessed land value slightly exceeds the subject’s. Ultimately, we find there is insufficient information showing inequity in the total assessment.

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. *Id.*

Schwartz’s offered seventeen comparables of which PAAB determined six as being most similar in age, size, style, and appeal. Of these six properties only one sold during 2018. The *Maxwell* equity test requires more than one sale for a ratio analysis to be completed. “It is well established that the showing of only one other comparable property in the area or district is not sufficient to afford relief, the rule being than an

assessment is not discriminatory unless it stands out above the general level.” *Maxwell v. Shivers*, 133 N.W.2d 709,712 (Iowa 1965). See *Crary v. Bd. of Review of Boone*, 286 N.W.2d 428 (Iowa 1939); *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019). For this reason, we conclude Schwartz has failed to show inequity in the assessment.

Schwartz also claims the property is assessed for more than authorized by law. 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). 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).

It is not sufficient to simply compare other properties’ assessments, or their rate of change, to succeed in an over assessment claim. Four of Schwartz’s comparables sold between 2016 and 2019, but were unadjusted for differences between them and the subject property. Schwartz failed to show his property’s market value as of January 1, 2019. 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 Schwartz failed to support his claims.

### **Order**

PAAB HEREBY AFFIRMS the Black Hawk County Board of Review’s action.

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

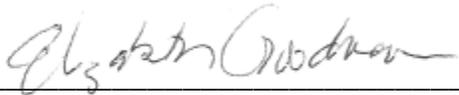
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

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).



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member



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Karen Oberman, Board Member

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