Electronically Filed
2019-02-15 09:08:10
PAAB

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

PAAB Docket No. 2018-025-00010R

Parcel No. 12-16-402-006

Natalia Shevchenko

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 8, 2019. Natalia Shevchenko was self-represented. Dallas County Deputy Assessor Brian Arnold represented the Board of Review.

Natalia Shevchenko and Andrej Cygankov own a residential property located at 2562 NW 162nd Street, Clive. The property's January 1, 2018 assessment was set at $454,750, allocated as $60,000 in land value and $394,750 in dwelling value. (Ex. A).

Shevchenko petitioned the Board of Review contending the subject property's assessment is not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2018). The Board of Review denied the petition.

Shevchenko then appealed to PAAB re-asserting her property was not equitably assessed and also asserted it was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1, 2) (2018).

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 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) 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). 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 a two-story home built in 1998. It has 3158 square feet of gross living area, a walk-out basement with 1168 square feet of living-quarter quality finish, a deck, a patio, an open porch, and a three-car attached garage. The site is 0.41 acres. (Ex. A).

Shevchenko testified the subject property was vacant when it was purchased because the prior owners had been relocated. She testified she made an offer on the subject property in March 2017, then closed and moved into the property in April 2017. After the hearing, the Board of Review provided a warranty deed dated June 8, 2016 showing a conveyance to Cygankov and Shevchenko. (Ex. H). The deed indicates it was recorded April 18, 2017.

Shevchenko testified the roof was replaced after she moved into the property because it only had a few years of remaining economic life. She submitted a photograph showing some tile on the fireplace in need of repair/replacement and a wood-frame window in disrepair (Ex. 9). The fireplace was repaired and she testified a couple of windows were replaced with low quality plastic-frame windows. In her opinion, these repairs did not add value. Shevchenko also submitted photos demonstrating the

subject property does not have a wet bar or bedroom in the basement. (Exs. 2-5). She acknowledged the property record card has since been modified to reflect she only has four bedrooms. We note that assessments are determined based on the gross living area, not bedroom counts. The property record card also does not indicate the property has a wet bar in the basement.

Arnold testified that after Shevchenko moved into the property she requested an informal review of her January 1, 2017 assessed value. The Assessor's Office inspected the subject property and confirmed Shevchenko's testimony regarding the condition of the roof and the deferred maintenance of the windows and fireplace. (Ex. A, p. 6; G). Based on this inspection there were corrections to the listing of the property and a 5% obsolescence adjustment for the condition was applied and the January 1, 2017 assessed value was set at $435,010. After the repair of the roof and replacement of the windows, the obsolescence adjustment was removed for the January 1, 2018 assessment. Shevchenko asserts these repairs do not warrant an increase of roughly $20,000 to her assessment in 2018.

In her opinion, the market for homes over $250,000 has declined since she has purchased the subject property. Additionally, although her home was built in 1998 she asserts it competes with new construction.

Shevchenko submitted nine properties built between 1999 and 2015 that she believes support her claims. (Ex. 13). The Board of Review also submitted the same properties. (Exs. D & E). The following table summarizes these properties.

Comparable Property	Date of Sale	Sale Price	Gross Living Area (SF)[1]	Basement Finish	2018 Assessed Value	AV/SF	SP/SF
Subject	Jun-16	$437,000	3158	1168/WO	$454,750	$144.00	$138.38
1 - 14291 Wildwood Dr	Mar-18	$422,000	3180	1000	$383,950	$120.74	$132.70
2 - 2569 NW 161nd St			3160	1100	$397,100	$125.66	
3 - 2535 NW 162nd St			3122	None	$396,070	$126.86	
4 - 15118 Wildwood Dr	Jan-17	$348,000	2729	1000/WO	$372,630	$136.54	$127.52
5 - 2594 NW 161nd St			2836	1000/WO	$388,080	$136.84	
6 - 4461 NW 164th St	Jan-17	$373,000	2425	970/WO	$368,150	$151.81	$153.81
7 - 2588 NW 162nd St	Sep-17	$417,000	2456	1400W/O	$386,100	$157.21	$169.79
8 - 16850 Airline Dr	Mar-18	$370,000	2359	800	$376,350	$159.54	$156.85
9 - 16816 Prairie Dr	Mar-18	$375,000	2270	800	$362,630	$159.75	$165.20

Comparables 2, 3, and 5 have not sold in the last two years.

Schevchenko's testimony focused on Comparables 4, 6, and 7 – the three 2017 sales. (Exs. 11-13). She noted these properties sold for less than her assessed value. These properties also have less gross living area than the subject property but they all have finished walk-out basements like the subject. The assessment/sales ratio of these properties ranges from 0.93 to 1.07, with an average and median ratio of 1.00 and 0.99 respectively. A ratio less than 1.00 indicates a property is assessed for less than its sale price, whereas a ratio greater than 1.00 indicates a property is assessed for more than its sale price.

Shevchenko believes Comparable 4 is superior to her home with recent updates including a new roof, windows, granite countertops, kitchen appliance, carpet and paint, as well as a wet bar in the basement. (Ex. 11). It also backs to a park. (Ex. 11).

Comparable 7 is located on the same street as Shevchenko's property and backs to a park. She testified this property had been listed for $485,000 but eventually sold for $417,000. (Ex. 12, 13). She also noted there are no properties on her street that are assessed higher than her property. We note this property has a grade (quality) of 2-05 compared to the subject's higher grade of 2+10.

Based on her research, Shevchenko believes properties are, on average, assessed for 2.5 percent less than their sale price. Applied to the subject property,

[1] It appears Schevchenko includes basement finish in the 'Sq. Ft – Zillow' column on Exhibit 13.

Shevchenko believes the correct January 1, 2018 assessment of her property should be $426,000.

The 2017 sales have assessments that range from $136.54 to $157.21 per square foot with an average and median of $149 per square foot and $152 per square foot, respectively. The subject property's assessed value of $144 per square foot is below the average and median of the 2017 sales.

The 2017-2018 sale prices range from $127.52 to $169.79 per square foot, with an average and median of roughly $151and $155 per square foot respectively. The subject's sale price of $138.38 square foot is at the low end of the range and below the average and median sale prices per square foot. None of these properties were adjusted for differences that may exist between them and the subject property to arrive at a January 1, 2018 opinion of market value.

Analysis & Conclusions of Law

Shevchenko contends the subject property is inequitably assessed and over assessed.

A taxpayer may 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). Shevchenko failed to demonstrate the Assessor applied an assessing 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 (2017) and assessed (2018) values of similar properties, the subject property is assessed at a higher portion of its actual value. *Id.* The record includes three 2017 sales indicating a range in ratio from 0.93 to 1.07, with an average of 0.99 and a median of 1.00.

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

Shevchenko testified she purchased the subject property for $437,000 and moved into the property in April 2017. She stated the property was vacant when purchased, as the prior owners had relocated. She did not provide any sale-related documents that substantiate the sale date, such as a purchase agreement or settlement statement. The warranty deed is dated June 2016, and recorded in April 2017.

Subsequent to the purchase, Shevchenko stated several windows and the roof were replaced. She does not believe these changes warrant a roughly $20,000 increase in her assessment from 2017 and 2018. Like Shevchenko, we question whether roof and window replacement alone would warrant an increase of $20,000 in assessed value. However, Shevchenko bears the burden of proof and did not provide any evidence of the repair costs or the post-repair value of the property. Because of the circumstances surrounding the sale and the post-sale repairs, we find we cannot rely solely on the sales price as an indicator of the property's value as of January 1, 2018. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996) (indicating that the subject's sales price is a matter to be considered in arriving at market value "but does not conclusively establish that value.").

In addition to the subject's sale price, Shevchenko submitted multiple recent sales. As compared with the subject, we find the majority of them have substantial differences in living area and, with the exception of the two properties discussed below, we do not find them comparable to the subject.

2588 NW 162nd Street sold for $417,000 in September 2017. Although it has a similar amount of combined above grade and basement living area as the subject, the comparable has a greater percentage of less valuable basement finish. Generally, above-grade finish contributes more value on a per-square-foot basis than basement finish.[2] The assessor has also assigned a lower quality grade (2-5) to this property, as compared to the subject (2+10).

14291 Wildwood Drive offers a similar amount of above grade and basement living area, and sold for $422,000 in February 2018. It does, however, lack a walkout basement like the subject and has one fewer fireplace and shower stall.

From the limited information about them in the record, both of these properties appear inferior to the subject property. This conclusion seems to be corroborated by the fact that each property sold for less than the subject. Without adjustments, we do not believe these sales provide a reliable indicator of the subject's fair market value as of January 1, 2018. Typically, market value is demonstrated with a competent appraisal or a comparative market analysis using adjusted sales.

Because we find the evidence is insufficient to demonstrate the subject's fair market value, we conclude Shevchenko has not shown her property is over assessed. Moreover, as there is insufficient evidence of the subject's actual value as of January 1, 2018, we are unable to complete the *Maxwell* analysis for the equity claim.

Order

PAAB HEREBY AFFIRMS the Dallas 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.

[2] For example, the subject's above-grade living area has a base cost of $66.27 per square foot. By contrast, its basement has a base cost of $26 per square foot.

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 (2018).

Karen Oberman, Presiding Officer

Camille Valley, Board Member

Copies to:

Natalia Shevchenko by eFile

Dallas County Board of Review by eFile