

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

PAAB Docket No. 2018-078-00116R

Parcel No. 7443 03 203 013

James Spitznagle,

Appellant,

vs.

Pottawattamie County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 27, 2019. James Spitznagle was self-represented. Assistant County Attorney Leanne Gifford represented the Pottawattamie County Board of Review.

James and Robin Spitznagle own a residential property located at 1459 South Lenox Circle, Council Bluffs, Iowa. The subject property's January 1, 2018 assessment was set at \$319,200, allocated as \$50,900 in land value and \$268,300 in dwelling value. (Ex. A).

Spitznagle petitioned the Board of Review claiming the assessment was not equitable compared to the assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2018). The Board of Review denied the petition. Spitznagle reasserted his inequity claim to PAAB.

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) 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(1)(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. § 441.37A(3)(a); *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 0.274-acre site with a one-story home built in 2009. The dwelling has 1558 square feet of gross living area, a walkout basement with 1000 square feet of living-quarter-quality finish, a deck, a patio and a three-car attached garage. It is listed as good-quality construction (grade 3+05) and in normal condition.

Spitznagle noted he lives in a growing neighborhood and there have been a lot of new homes built since his home was constructed. He is concerned the Assessor based the subject property's value on similarly sized new homes. He argued new homes are selling for a higher price than what he believes he could get for his home. Buyers of new homes, he notes, often get to pick their own colors, flooring, and other finishing details; plus there are no cracks in the new home's driveway.

Spitznagle offered ten recent neighborhood sales in support of his inequity claim. The following table summarizes the information provided. (Ex. E).

Sale	Address	Total Living Area	Assessed Value	AV/SF	Sale Price	SP/SF	AV/SP Ratio
SP	1459 S Lenox Cr	2558	\$319,200	\$124.71	N/A	N/A	N/A
1	1329 N Lenox Cr	3196	\$ 340,800	\$106.63	\$ 340,000	\$ 106.38	1.00
2	1612 S Lenox Cr	3500	\$ 388,500	\$111.00	\$ 384,000	\$ 109.71	1.01
3	1450 S Lenox Cr	3316	\$ 402,100	\$121.26	\$ 400,000	\$ 120.63	1.01
4	5101 Providence	3512	\$ 355,700	\$101.28	\$ 350,000	\$ 99.66	1.02
5	1601 Baldwin Cr	3130	\$ 323,000	\$103.19	\$ 325,000	\$ 103.83	0.99
6	1608 S Lenox Cr	2165	\$ 312,000	\$144.11	\$ 306,000	\$ 141.34	1.02
7	1607 S Lenox Cr	2839	\$ 320,000	\$112.72	\$ 315,000	\$ 110.95	1.02
8	5013 Providence	2674	\$ 305,200	\$114.14	\$ 304,000	\$ 113.69	1.00
9	1313 Aster Cr	2900	\$ 305,000	\$105.17	\$ 309,000	\$ 106.55	0.99
10	603 Redwood Dr	2712	\$ 290,000	\$106.93	\$ 305,000	\$ 112.46	0.95

The sale prices ranged from \$305,000 to \$400,000, thereby bracketing the subject property's \$319,200 assessed value. We note their assessment to sale price ratios ranged from 0.95 to 1.02, with a mean of 1.00 and median of 1.01 (rounded).

Spitznagle calculated the average sale price and average assessed value per square foot for the ten sales at \$113 (rounded). Spitznagle testified that he could not understand why the subject property's assessed value per square foot is higher at \$124.71. First, we note Spitznagle calculated the price per square foot on total living area – both above grade and basement finish combined. However, above-grade living area is typically more expensive than below-grade living area and the quality of the finish may vary as well, ultimately impacting the total value. Further, even if it were reasonable to rely on Spitznagle's calculations, we note the assessed value per square foot for the comparables ranges from \$101.28 to \$144.11 and the subject property falls in the middle of the range.

The Board of Review argued there is no information showing the ten sales are comparable to the subject property. Spitznagle testified that Sales 8 and 10 are very similar and located very close to his home. He stated they have a like amount of total living area, similar bedroom counts, and similar garages.

Spitznagle appeared frustrated that he did not understand how the Assessor arrived at the subject property's assessed value. He believes the subject property would sell for \$305,000 if it were placed on the market. He noted he had considered selling his home right before the 2018 assessment came out, and the real estate agent informed

him the most he might get would be around \$300,000, but it would take a long marketing period to obtain that price.

Analysis & Conclusions of Law

Spitznagle contends the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1).

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). Here, we find Spitznagle 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 properties using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2017) and assessed (2018) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.*

Spitznagle offered ten sales from his new and growing neighborhood in support of his inequity claim. He compared his assessed value per square foot of total living area with the assessed value per total living area of properties he believes are similar to his. But, it is insufficient to simply compare assessments.

The record reflects the assessment/sales price ratios for the sales ranged from 0.95 to 1.02, with a mean of 1.00 and median of 1.01. A ratio greater than 1.00 indicates a property is over assessed. A ratio less than 1.00 indicates a property is under assessed. Here, the sales, on average, are assessed at market value.

Next, a ratio for the subject property is needed to compare with the similar properties' ratios in order to determine if the subject property is assessed at a higher proportion of its actual value than other sale properties. But, the *Maxwell* equity test cannot be completed. The subject property did not recently sell, nor did Spitznagle offer evidence of its January 1, 2018 market value.

Viewing the record as a whole, we find Spitznagle failed to prove the subject property's assessed value is inequitable compared with the assessments of other like properties.

Spitznagle appeared frustrated in not understanding how the Assessor determined the subject property's assessed value. Therefore, he might consider scheduling an appointment with the Assessor's Office to review the subject property's assessment.

Order

PAAB HEREBY AFFIRMS the Pottawattamie County Board of Review's action.

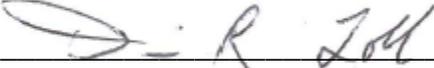
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

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 sections 441.37B and Chapter 17A.19 (2018).



Camille Valley, Presiding Officer



Dennis Loll, Board Member



Karen Oberman, Board Member

Copies to:

James Spitznagle by eFile

Pottawattamie County Board of Review by eFile