

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

PAAB Docket No. 2018-039-00074R

Parcel No. 0001807800

**Mark Witte,**

Appellant,

vs.

**Guthrie County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 20, 2019. Mark Witte was self-represented. Attorney Brett Ryan represented the Guthrie County Board of Review.

Mark and Catherine Witte own a residential property located at 4623 Panorama Drive, Panora, Iowa. The subject property's January 1, 2018 assessment was set at \$393,200, allocated as \$201,600 in land value and \$191,600 in dwelling value. (Ex. A).

Witte 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. Witte 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 0.642-acre lake front site with 105.4 effective front feet of lakeshore. It is improved with a one-story home built in 1995 that has 1259 square feet of gross living area, a walkout basement with 1000 square feet of living-quarter-quality finish, a deck, a patio and a two-car attached garage. It is listed as average quality construction (grade 4+10) and in normal condition. (Ex. A).

Witte offered 4619 Panorama Drive as a comparable property in support of his inequity claim, noting it is located one lot away on the same Lake Panorama cove with a similar lake view. (Ex. C). While the comparable home is of a similar style and age, he contends it is located on a larger lot, has more finished living area, a larger garage, and more lake front footage. Witte argued that when comparing assessed values per square foot, his home is assessed 91% higher and his land is assessed 26% higher. (Ex. 1).

Witte's comparable last sold in October 1994. Further, we note 4619 Panorama Drive's property record card (PRC) shows this property is listed in below-normal condition as compared to the subject property's normal condition. (Ex. B, PRC for 4619 Panorama Drive). This results in his comparable receiving more depreciation to the main improvements (20%) as compared to the subject property's depreciation (11%). It also receives an additional 20% functional obsolescence for "functional, modular design

issues” that appear to be related to the fact the property is a modular home. The PRC further explains, “deceiving from the outside; the house looks nice from the curb.” (Ex. B, PRC for 4619 Panorama Drive). These factors result in the Witte’s comparable having a lower assessment than his property.

As it relates to the land values both the subject property and Witte’s comparable are valued on an effective-front-foot (EFF) basis. They are not valued on a per square foot basis. The unit price applied to each EFF is \$2250 for both the subject property and Witte’s comparable. Witte’s property has 105.40 EFF and receives an additional 15% “other obsolescence” resulting in a total land value of \$201,600. 4619 Panorama Drive has 151.25 EFF and receives an additional 35% “other obsolescence” resulting in a total land value of \$221,200. Neither PRC explains the reason for the “other obsolescence.”

The Board of Review asserted its decision should be upheld as a matter of law as *Maxwell* equity analysis requires more than one comparable property.

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

Witte 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 Witte did not 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*, 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.* It is insufficient to simply compare the subject property’s assessed value to the assessments of other properties or to compare the rate of change in assessment amongst properties.

Witte offered 4619 Panorama Drive, a neighboring property located on the same lake cove as the subject property, as a comparable. However, a recent sale is required for calculating an assessment/sale price ratio and the record indicates this property last sold in October 1994. In addition, *Maxwell* requires more than one comparable property be used to demonstrate inequity.

Further, the *Maxwell* analysis cannot be completed as an assessment to sale price ratio also needs to be developed for the subject property. The subject property did not recently sell, nor did Witte offer evidence of its January 1, 2018 market value. A ratio for similar properties as well as the subject property is required in order to determine if the subject property is assessed at a higher proportion of its actual value than other sale properties.

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

### **Order**

PAAB HEREBY AFFIRMS the Guthrie 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).

  
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Camille Valley, Presiding Officer

  
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Dennis Loll, Board Member

  
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Karen Oberman, Board Member

Copies to:

Mark Witte by eFile

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