

PROPERTY ASSESSMENT APPEAL BOARD

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-025-00163R

Parcel No. 15-35-226-018

Matt & Amy Yuska (CW&B Builders, LLC)

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 18, 2019. Attorney David Wetsch represented Matt and Amy Yuska who are the owners of CW&B Builders, LLC. Dallas County Assessor Steve Helm represented the Board of Review.

CW&B Builders, LLC (Yuska) own a residential property located at 28902 Hickory Ridge Drive, Van Meter. The property's January 1, 2019, assessment was set at \$721,870, allocated as \$150,000 in land value and \$571,870 to the improvement value. (Ex. A).

The Yuskas petitioned the Board of Review contending their assessment was not equitable as compared with assessments of other like property and that their property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (Ex. C). The Board of Review denied the petition. (Ex. B).

The Yuskas reasserted their claims to PAAB.

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 R. 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. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject improvement is a one-and-a-half-story home built in 2018. It has 2879 square feet of gross living area with 1445 square feet of living-quarter quality finish in the walk-out basement. It also has two open porches, a deck, a patio, and a four-car attached garage. The dwelling is listed in normal condition with a 1+05 (superior quality) grade. It is situated on a 2.24-acre site. (Ex. A).

The subject site transferred three times since 2006 and prior to the Yuskas acquiring the site: July 2006 for \$155,000; April 2007 for \$150,000; and June 2007 for \$155,000 (the purchase of the lot by Matt Yuska's in-laws). Matt Yuska explained the subject site was gifted them by Amy's parents in October 2018; for purposes of the transfer, it was valued at \$110,000, but it shows as \$0 on the property record card (PRC). (Ex. A, p. 1; Ex. 2, p. 2). Yuska acknowledged typical lot sales in his development have sales prices and assessed values around \$150,000. He explained the transfer value was reduced to reflect expansive soil conditions with the site, which were known to exist prior to construction of their home.

Yuska testified the expansive soil resulted in additional costs before they could construct their home. Extra costs included a need to over-excavate the foundation; bring in and compact limestone; the installation of engineered footings; and the need to add 4-inches of top soil to encourage sod and landscape growth. Additionally, because of a

failed percolation test a specialized two-tank septic system was required. After the septic system was installed, there was ponding of water and the septic had to be extended another 200 feet from the house adding costs. Yuska's estimated overall impact of these costs was \$24,800 to \$25,800. He testified these additional site costs were included in his estimate of \$535,000 for the cost of improvements. Yuska did not submit any documentation to support his construction cost estimates such as a construction contract.

The Yuskas moved into the subject property in late-September 2018, but the property was not 100% complete for another three to four weeks after.

Yuska stated his property has inferior qualities such as low-speed internet, lacks landscaping, and the development has privately maintained streets and lacks fire hydrants which increases his insurance costs.

The Yuskas submitted a January 1, 2019 appraisal completed by Robert Kress of Kress Appraisal Services, Earlham, concluding an opinion of value of \$639,000. (Ex. 1). Kress did not testify. Yuska testified Kress' opinion of value is similar to his actual construction costs of \$535,000 plus the \$110,000 asserted value of his site, and believes this is the correct value of his property.

Despite the subject property being a new construction, Kress did not develop the cost approach and relied solely on the sales comparison approach to value the subject property. Kress explained he did not develop the cost approach because he did not believe it was "applicable due to uncertainty of measuring accrued depreciation." (Ex. 1, p. 6).

Kress described the subject as being located in an "...executive development, very nice, trees, secluded." (Ex. 1, p. 5). Yuska testified Kress physically inspected the subject property. The appraisal likewise states Kress inspected the property (Ex. 1, Appraiser's Certification para. 8), but the appraisal report submitted did not include any photographs or a sketch of the improvements, which are typically included when the appraiser physically inspected and measured a property. Additionally, the appraisal report has no description of the subject improvements other than "see attached County Assessor Card Exhibit A." (Ex. 1, p. 5).

Kress included three sales in his analysis that sold between October and November 2018 and are summarized in the following table. (Exs. 1, p. 6; 3, 5-6).

| Comparable | Sale Price | Gross Living Area | Basement Finish (SF) | Adjusted SP |
|---|------------------------|-------------------|----------------------|-------------|
| Subject, Van Meter | | 2879 | 1445 | |
| 1 - 14404 Sheridan Ave, Urbandale | \$639,470 | 2735 | 1295 | \$639,470 |
| 2 - 11077 Brookdale Dr, West Des Moines | \$645,500 ¹ | 3095 | 1310 | \$645,500 |
| 3 - 4705 155th Ct, Urbandale ² | \$499,900 | 2670 | None | \$621,145 |

None of the sales are located in Kress' development or have Van Meter addresses. Kress did not provide any maps or description of the distance of these comparables in relation to the subject property. However, Assessor Helm noted the properties were between 7 and 15 miles away from the subject property, and in his opinion, these locations are not comparable to the subject's development. The sales have sites ranging in size from 0.53-acres to 0.80-acres compared to the subject site of 2.24 acres. Kress made no adjustments to sales 1 and 2 for any differences that exist between them and the subject property. His report states, "Comparable #1 and #2 (city) have added amenities but are equal to subject." (Ex. 1). He reported that all of his comparable sales have a four-car attached garage, but based on the assessment summary sheets, and Yuska's analysis in Exhibit 14, it appears all three of the sales have only a three-car attached garage.

Kress adjusted Sale 3 upward by roughly \$121,000 for features such as condition; basement size and finish; and decks and patios. Kress provided limited to no rationale for his adjustments; or lack thereof in the case of Sales 1 and 2. Specifically, we note there is no explanation for why Kress selected sales quite some distance from the subject property, when the record indicates there were numerous more proximate and recent sales to the subject property.

¹ Kress misreported the sale price as \$645,000. His report included the property record summary which identifies the sales price as \$645,500.

² Kress misreported the address for Sale 3 in his appraisal grid as 4707 155th Court but included the property record summary for 4705 155th Court as an addendum, which corresponds with the data he presented.

In addition to the three sales in Kress' report, Yuska also considered the sale of 1179 S Kingswood Court in support of his equity claim. (Exs. 4 & 14). The following table summarizes the properties and Yuska's analysis of these properties.

| Comparable | Site Size | Gross Living Area (SF) | Basement Finish | Sale Date | Sale Price | SP/SF | Assessed Value | AV/SP Ratio |
|--------------------------------------|-----------|------------------------|-----------------|-----------|------------|----------|----------------|-------------|
| Subject, Van Meter | 2.24 | 2879 | 1445 | NA | NA | NA | \$721,870 | NA |
| 1179 S Kingswood Ct, West Des Moines | 2.10 | 2581 | 0 ³ | Feb-19 | \$613,080 | \$237.54 | \$581,200 | 0.95 |
| 14404 Sheridan Ave, Urbandale | 0.71 | 2735 | 1295 | Nov-18 | \$639,470 | \$233.81 | \$617,320 | 0.97 |
| 11077 Brookdale Dr, West Des Moines | 0.80 | 3095 | 1891 | Nov-18 | \$645,500 | \$208.56 | \$629,130 | 0.97 |
| 4705 155th Ct, Urbandale | 0.53 | 2670 | 0 | Oct-18 | \$499,900 | \$187.23 | \$502,170 | 1.00 |

1179 S Kingswood Court is a 2.10-acre site improved with a two-story home with a three-car garage built in 2018. It does not have any basement finish. It sold in February 2019 for \$613,080. (Ex. 4). The other comparables were all included in Kress' appraisal and have been earlier described.

Yuska asserts these properties are all superior to his property because they have city utilities including fire hydrants, are located on public streets, and have high-speed internet. Yet, the sale prices per square foot for all, is less than his assessed value per square foot of \$250.73.

Typically, 2018 sales are used in comparison to their 2019 assessed values to establish an assessment-to-sales price ratio. Therefore, 1179 S Kingswood Court would not be included in this analysis. A ratio less than 1.00 indicates a property is assessed for less than its market value; a ratio greater than 1.00 indicates a property is assessed for more than its market value. Here, all of Yuska's comparables indicate that properties like his are assessed at or slightly below market value.

Yuska also compared the assessments of properties in the subject's development to his home. (Exs. 7-12 & 14).

³ The PRC for this property lists "57-walk-out (PLF Exposed)" for basement finish. This indicates the property is a walk-out like the subject and is being valued for that feature, but it has no actual living-quarters finish at the time of assessment.

| Comparable | Site Size (Acres) | Year Built | Style | Gross Living Area (SF) | Basement Finish (SF) | Assessed Value | AV/SF |
|------------------------|-------------------|------------|---------|------------------------|----------------------|----------------|----------|
| Subject | 2.24 | 2018 | 1.5-Sty | 2879 | 1445 | \$721,870 | \$250.74 |
| 28891 Hickory Ridge Dr | 2.05 | 2011 | 1.5-Sty | 4132 | 2200 | \$679,520 | \$164.45 |
| 28718 Hickory Ridge Dr | 1.60 | 2015 | 2-Sty | 3097 | 1200 | \$568,710 | \$183.63 |
| 28915 Hickory Ridge Dr | 1.60 | 2015 | 2-Sty | 3164 | 945 | \$583,850 | \$184.53 |
| 28818 Hickory Lodge Dr | 2.19 | 2014 | 1.5-Sty | 3788 | 0 | \$629,170 | \$166.10 |
| 28900 Hickory Lodge Dr | 1.70 | 2008 | 1-Sty | 2897 | 1800 | \$607,260 | \$209.62 |
| 28936 Hickory Ridge Dr | 1.86 | 2005 | 1-Sty | 2398 | 1200 | \$661,810 | \$275.98 |

Yuska testified all of these properties are superior to his because they are fully landscaped where his site is not. He also noted two of the properties have geo-thermal heating, which is superior to his forced air heating system.

Yuska stated 28891 Hickory Ridge Drive is located almost directly across the street, it is larger than his home, and has a four-car detached garage yet is assessed for nearly \$100 per square foot less than his property. This property was built in 2011 and has not recently sold. (Ex. 7).

28936 Hickory Ridge Drive is the only recent sale. It sold in May 2019 for \$650,000. (Ex. 12). Yuska noted its recent sale was \$112,000 less than when it sold for \$762,000 as new construction in 2008. However, the transfer of this property as new construction occurred in 2006 for \$755,205.

Yuska did not adjust the sale price of 28936 Hickory Ridge Drive for differences between it and the subject property to arrive at an opinion of market value as of January 1, 2019. Rather, he relies on the assessed value per square foot of the properties and compares them to his.

Yuska was also critical of the Assessor's determination of a 1+05 grade that was assigned to his property as well as some additional listing issues. Yuska testified he examined the IOWA REAL PROPERTY APPRAISAL MANUAL relating to the grade of his property. Based on the MANUAL, Yuska believes his home should be a 3+00 grade, which is defined, in part, as "typically lack[ing] the architectural frills found in higher grade structures, however, they will basically be of good practical design and layout. The materials and workmanship will barely be above average." (MANUAL 3-5). Yuska

testified he is an account manager at Transamerica and does not have a construction background. We also note that Yuska's appraiser identified the subject improvements as having an "executive interior." (Ex. 1, p. 2).

Helm testified that the Assessor's Office had construction plans for the subject property and it was inspected in June and July 2018, with the last inspection being when the property was in the drywall and mudding stage. (Ex. A, p. 4). The grade was determined based on these inspections. Helm testified the subject property's 1+05 grade is just less than an E or executive quality grade. Helm explained he has not personally inspected the subject property but would be more than willing to do so at Yuska's request. Yuska questioned what impact a grade 3+00 rating would have on the assessed value of his property. Helm testified it would result in a reduction in the assessed value of roughly 50-60%. Helm acknowledged that if the grade were reduced, it would result in a reduction in the assessed value.

Because there were concerns about the grade of the subject property, PAAB requested a listing of all the properties that were identified by both Yuska and the Board of Review and their corresponding grades; as well as the grades of other properties in the subject's subdivision. (Ex. G). This list indicates that the subject property's grade of 1+05 is typical for the development and comparable to the properties considered by both parties in this appeal.

Finally, Yuska asserts his property record card incorrectly lists his property as having two bedrooms in the lower level. Helm explained the annotation of two bedrooms is for listing purposes only and can be corrected but this would not change the assessed value, which is not based on bedroom count but rather amount of finish.

Helm testified for the Board of Review and was critical of Yuska's evidence including the Kress appraisal. Helm testified the subject's subdivision is a nice neighborhood with homes ranging from \$500,000 to over \$1,000,000. Helm noted there were recent sales in the subject's neighborhood, which Kress did not include in his report.

The Board of Review submitted five sales, which it adjusted for differences compared to the subject property. (Exs. D & E). The following table summarizes the Board of Review's market analysis.

| Comparable Sale | Year Built | Site Size (Acres) | Gross Living Area (SF) | Sale Price | Sale Date | Adjusted Sale Price | Assessed Value | AV/SP Ratio |
|----------------------------|------------|-------------------|------------------------|------------|-----------|---------------------|----------------|-------------|
| Subject | 2018 | 2.24 | 2879 | | | | | |
| A - 36378 Shagbark Cr | 2018 | 1.72 | 3373 | \$831,550 | May-18 | \$790,640 | \$828,000 | 1.00 |
| B - 28936 Hickory Ridge Dr | 2005 | 1.86 | 2398 | \$650,000 | May-19 | \$695,900 | \$661,810 | 1.02 |
| C - 1095 S Deer Rd | 1993 | 2.53 | 2932 | \$750,000 | Jul-19 | \$766,230 | \$477,740 | 0.64 |
| D - 31327 Champagne Rd | 2013 | 1.18 | 3039 | \$670,000 | Sep-18 | \$702,510 | \$607,470 | 0.91 |
| E - 29189 Hickory Lodge Dr | 2016 | 2.48 | 3078 | \$816,536 | Feb-17 | \$812,526 | \$755,000 | 0.92 |

Sales A, B, and E are located in the subject's subdivision. Sales C and D are in comparable rural subdivisions located 8.5 miles and 3.5 miles from the subject respectively. (Ex. F).

Helm noted that Sale B is a one-story home but he believes it would have similar appeal to the subject's one-and-a-half story design because of its first floor master bedroom. Helm explained Sale D is a two-story home and was included because it is in the same school district as the subject property.

After adjusting the properties quantitatively for differences such as gross living area, basement finish, and amenities, the sales have an adjusted range of value of roughly \$696,000 to \$812,000. Helm testified that several of the sales (B, C, and D) were inferior to the subject property in age and condition. Rather than making adjustments that could be perceived as subjective, these elements of comparison were adjusted qualitatively. He noted that all of them would require upward adjustments and which would add further support to the Board of Review's assertion that the subject's January 1, 2019, assessment reflects its fair market value.

Helm further noted there are three current listings in the subject's development ranging from \$530,000 to \$1,100,000. In his opinion, this is further evidence that the subject's assessed value is reasonable and reflective of this particular market.

Helm confirmed with Yuska the assessed value of each of the Board of Review's comparable sales as shown in the previous table.

We again note that an assessment-to-sales price ratio analysis is based on 2018 sales compared to the 2019 assessed value. In this case, Sales A and D could be considered; as with Yuska's equity analysis, these sales indicate that in general properties like the subject are assessed at or slightly below their actual value.

Yuska was particularly critical of Sale C because its assessment is substantially less than its recent sale price. Helm explained the Assessor's Office confirmed this transaction with the seller of the home and noted it had been "gutted to the studs" and was told that it was "70% new" when it sold. He testified there has not been an inspection of this property since this sale and the updates that have occurred are not yet recorded on the property record card. Helm believes it is a good comparable for a market claim but because of the significant updating which has not yet been considered in its assessed value, it is not a good comparable for an equity claim.

Helm testified he was unaware the subject property had expansive soils until he learned of it at hearing. In response to whether this would affect the value of the subject property, he testified he did not have enough information to form an opinion and noted that those issues have apparently been corrected with construction of the dwelling.

Analysis & Conclusions of Law

The Yuskas assert the subject properties are inequitably assessed and assessed for more than the value authorized by law. § 441.37(1)(a)(1 & 2).

We first address Yuska's over assessment claim, as a showing of the property's actual value is required in an inequity analysis.

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).

There is no presumption 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). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783. “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Sale prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments”. *Id.* (other citations omitted).

The Yuskas submitted the Kress appraisal valuing their property at \$639,000. Yуска contends Kress physically inspected the property, but it appears Kress relied solely on the Assessor’s records for data pertaining to the subject property. A physical inspection is not required to complete an appraisal but it would result in a higher level of credibility to the analysis.

In his sales comparison analysis, Kress did not adjust two of his three comparable properties and provided minimal rationale for his conclusions. He

considered three sales located in different school districts within the city limits of Urbandale or West Des Moines, compared to the subject's private, rural subdivision in the Van Meter School District.

As compared to appraisals PAAB often sees in assessment appeal litigation, we note Kress' appraisal lacks the amount of detail and description we are used to. There is no description of his sales search criteria, which might help to explain why he excluded sales in the subject's subdivision for properties located on smaller sites in other locations. There is no explanation for his adjustments or lack thereof, or his ultimate reconciliation. Kress used a standardized appraisal form, but the exhibit submitted to PAAB is either missing several pages which are typically included or his report does not comport to typical industry standards.

Kress does follow the statutory scheme and valued the subject based on the sales comparison approach. However, due to the comparables Kress chose, which are located some distance from the subject when the record shows there are recent sales in the subject property's own subdivision; the lack of adjustments Kress made to these comparables; and other issues including assumptions and lack of detail in the appraisal, we find his report lacks credibility and reliability.

Additionally, while the sales comparison approach is the preferred method when sales are available, as they are in this case, the subject property is new construction and the cost approach would be particularly relevant. Kress did not develop the cost approach, nor did he analyze or report the recent construction costs of the subject property and how, if at all, they may have differed from his opinion of value.

Even if the Kress appraisal, with its unadjusted comparables and lack of detail, would shift the burden of proof to the Board of Review, we conclude the Board of Review has upheld its burden to support the assessment.

The Board of Review submitted five sales, three of which are located in the subject's immediate subdivision. The sales were adjusted for differences both qualitatively and quantitatively. The adjusted sale prices of these properties show the subject's assessed value is within the range of market values for similar nearby properties.

Based on the foregoing, we conclude the record does not show the subject property is over assessed.

Turning to their claim of inequity, to prove this ground 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 Yuskas offered no evidence that the Assessor applied an assessment method in a non-uniform manner. Moreover, simply comparing assessments on a per square foot basis is not sufficient to show inequity.

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. The record has several 2018 sales of similar properties, indicating assessments are at, or slightly below market value. The *Maxwell* test also requires a showing of the subject property's actual market value. For this the Yuskas rely on their appraisal which, if it were reliable, would indicate an assessment/sales ratio of 1.13. However, having previously concluded the appraisal is neither credible nor reliable, and that the Board of Review upheld its burden to support the assessment, any ratio analysis dependent upon Kress' appraisal is unreliable. For this reason, we conclude Yuskas have failed to show their assessment is inequitable.

Finally, although the Yuskas did not raise an error claim, they repeatedly asserted the grade of their property is incorrect and should be listed as a 3+00 grade. The record indicates their property's grade is consistent with other similarly situated properties. There is no evidence in the record, such as photographs or an appraiser's description of the subject's improvements that indicate the subject's grade is incorrect. If they believe their property's grade is incorrect, they may wish to request an interior inspection of their property by the Assessor's Office to confirm it is correctly listed.

Order

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

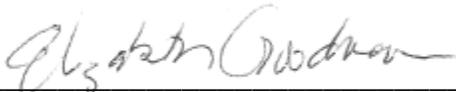
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

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.

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).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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