

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

PAAB Docket No. 2019-077-00358R

Parcel No. 291/00367-350-019

Vipin Bhavsar (Vishanta Revocable Trust),

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 19, 2020. Vipin Bhavsar represented Vishanta Revocable Trust. Assistant Polk County Attorney David Hibbard represented the Board of Review.

Vishanta is the title-holder of a residential property located at 1445 NW 131st Street, Clive, Iowa. The property's January 1, 2019, assessment was set at \$445,600, allocated as \$73,700 in land value and \$371,900 in dwelling value. (Ex. A).

Bhavsar petitioned the Board of Review claiming the assessment was not equitable as compared to the assessments of other like property, and that the property is assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1 & 2). (Ex. C). The Board of Review denied the petition. (Ex. B).

Bhavsar appealed to PAAB reasserting the same grounds.

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). 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).

Findings of Fact

The subject property is a split-level home built in 1992. It has 3233 square feet of gross living area; 1000 square feet of living-quarters-quality basement finish; an open porch; a deck; and a three-car attached garage. The exterior has 1340 square feet of brick veneer. It is listed in normal condition with a 2+00 Grade (high quality). The site is 0.340 acres. (Ex. A).

Bhavsar asserts his property is assessed for more than similar properties located in nearby neighborhoods that are superior to his area. Additionally, he contends his assessment has increased at a rate similar to properties located in Chicago, Portland, and San Francisco.¹ (Appeal). Bhavsar compared the change in assessed value of his

¹ Bhavsar made similar contentions in two previous appeals to PAAB. In both cases PAAB found he failed to meet his burden of proof and affirmed the actions of the Board of Review. PAAB Docket Nos. 2015-077-00929R (November 2, 2016) and 2017-077-00514R (January 23, 2018).

property over the last five years and arrived at an average annual increase of 7.5%. He submitted internet real estate market trend data for similar periods for Chicago, Portland, and San Francisco reflecting percentage changes in median sale prices of 1.8%, 5.11% and 5.8% respectively. (Exs. 1 & 2). Based on this analysis, Bhavsar contends Polk County values are high in comparison. The Board of Review challenged the relevancy of these sales trends noting Des Moines is very different from these markets. We agree and do not consider this analysis relevant to the issue of valuation of Polk County, Iowa, real estate.

Bhavsar points to four properties he believes are similar to his that are located in more prestigious neighborhoods, yet have lower assessments than his home. (Ex. 2). He believes they support his requested valuation of \$395,500. The following table summarizes his comparables.

Address	Gross Living Area	Basement Finish	Grade	2019 Assessment
Subject	3233	1000 LQ	2+00	\$445,600
1 - 14005 Lake shore Dr	3260	180 AV +	2+00	\$365,100
2 - 14001 Lakeview Dr	3244	No Finish	2-10	\$379,200
3 - 2044 NW 137th St	3262	400 Av +	2-05	\$335,700
4 – 13975 Lakeview Dr	3172	196 LQ	2-10	\$359,300

None of the properties have recently sold. All are two-story homes compared to the subject property’s split-level design. While the comparable properties are similar in age, gross living area, and condition, all have significantly less or no basement finish and are generally of lower quality. Three have lower overall quality grades. Another significant difference between the subject property and the comparables is the subject property’s amount of brick veneer - approximately 1340 feet. (Ex. A). Only Comparables 2 and 3 have any brick veneer and it is insignificant in comparison totalling just 588 and 352 feet respectively. (Ex. 2).

The subject's market adjusted cost report shows the basement finish and exterior veneer area add \$48,360 and \$21,815 to the subject's replacement cost new. (Ex. A). These differences, along with the size of decks, porches, and grade account for the differences in assessed values between the subject and the comparable properties.

Bhavsar also questioned the valuation placed on his basement finish contending it was reflective of higher-end finishes and testified his finish was more "ordinary." He acknowledged he had not requested an inspection by the Assessor's Office to confirm the listing of his basement finish, nor had he obtained a recent appraisal or a comparative market analysis of his property as was suggested in PAAB's order in his 2017 appeal.

The Board of Review did not offer any testimony.

Analysis & Conclusions of Law

Bhavsar asserts his assessment is not equitable as compared with other like property and is for more than authorized by law under Iowa Code sections 441.37(1)(a)(1 & 2). Bhavsar bears the burden of proof. § 441.21(3).

To prove inequity, 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). We find Bhavsar has not shown 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*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual (2018 sales) and assessed (2019) values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* Bhavsar submitted four properties, but none sold in 2018.

Accordingly, the Maxwell analysis cannot be completed. We thus turn to Bhavsar's 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. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Bhavsar submitted four properties he believes demonstrate his property is overassessed. However, none of these properties have recently sold and each have differences compared to his property that account for their lower assessments. Moreover, simply comparing assessments or the rate of increase between assessment years is insufficient to support a claim of over assessment. Bhavsar did not submit any evidence demonstrating the subject property's January 1, 2019, market value such as an appraisal or comparative market analysis.

Viewing the record as a whole, we find Bhavsar failed to show the subject property is inequitably assessed, or that the subject is over assessed.

Because Bhasvar expressed concern over the valuation of his basement finish, he may wish to contact the Assessor's Office and request a physical inspection of his home to ensure the features are properly listed for future assessments.

Order

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

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

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.



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

Copies to:

Vipin Bhavsar by eFile

Polk County Board of Review by eFile