

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

PAAB Docket No. 2019-077-00321R

Parcel No. 291/00065-481-013

Anish and Anita Keshwani,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 18, 2020. Anita Keshwani was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Anish and Anita Keshwani own a residential property located at 13931 South Shore Drive, Clive, Iowa. The property's January 1, 2019, assessment was set at \$601,300, allocated as \$153,600 in land value and \$447,700 in dwelling value. (Ex. A).

Anita Keshwani petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property and the property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). (Ex. C). The Board of Review denied the petition. (Ex. B).

Keshwani appealed to PAAB reasserting the property is inequitably assessed.

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 Rule 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. *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, 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 two-story home built in 1993. It has 3842 square feet of gross living area, with 1440 square feet of living-quarters-quality basement finish and a walk-out feature, an open porch, a deck, and a patio. It also has an attached 876-square-foot, three-car garage. It is listed in normal condition with high-quality construction (grade 2+10). A 14% physical depreciation has been applied to the dwelling in the assessment. The site is 0.477 acres and has lake frontage. (Ex. A).

The Keshwanis purchased the subject property in 2007 for \$700,000. (Ex. A). Anita Keshwani testified the real estate market was high at that time and she does not believe the property is worth that amount today. We note the assessment history of the subject property has never reflected an assessment at \$700,000. Keshwani asserts her property is in need of significant updates and repairs. Specifically she noted two of her three fireplaces are not in working condition and need to be taken down. She also testified her lake frontage has deteriorated and her river rocks have washed away. The Board of Review was not previously aware of these issues and no documentation of the same has been supplied.

Keshwani further testified her home's interior has not had updates compared to other properties on her street. She provided photographs of her exterior trim and decking showing apparent rotting, and interior flooring and walls that show wear and tear or deferred maintenance. (Exs. 3-4). The Board of Review was familiar with these

conditions and noted Keshwani's 2017 protest cited the same concerns. (Ex. C). The Board of Review lowered the 2017 assessment from \$601,000 to \$575,100 essentially making an adjustment for these issues. The Board of Review further noted the Assessor's Office was unaware that Keshwani's neighbor's homes had been updated.

Keshwani acknowledged she has not obtained an appraisal or a comparable market analysis of her property. Nor has she requested the Assessor's Office to inspect her home. Although Keshwani's appeal requested a valuation of \$581,800, she testified she now wanted a valuation of \$575,100, the same as her 2017 assessment.

Keshwani submitted four properties she contends show her property is inequitably assessed. PAAB took judicial notice of the property record cards and cost sheets for each property, which are summarized in the following table. (Exs.1, 5-8).

Address	Site Size (acres)	Gross Living Area (SF)	Basement Finish (SF)	Veneer area (SF)	Fireplace	2017 Assessed Value	2019 Assessed Value	% increase
Subject	0.477	3842	1440 LQ/WO	720	3	\$575,100	\$601,300	4.56
1-13981 South Shore Dr	0.440	3844	1390 LQ	0	2	\$572,400	\$589,800	3.04
2-14007 South Shore Dr	0.463	3710	1200 LQ/WO	0	1	\$542,700	\$554,500	2.17
3-14137 South Shore Dr	0.587	3356	0	0	1	\$490,800	\$507,300	3.36
4- 13782 Lake Shore Dr	0.470	3589	1064 LQ/WO	768	4	\$563,900	\$583,500	3.48

None of these properties have recently sold; however, Keshwani reported that Comparable 3 is currently on the market for \$645,000. (Ex. 1).

All are two-story homes with lake frontage, and of similar age, quality and condition as the subject. The subject property has the second largest gross living area and the largest amount of basement finish with a walk-out feature. The basement finish and walk-out add significantly to the subject's assessment attributing \$76,752 and \$9,954 respectively before depreciation and other adjustments. Comparables 1 and 3 do not have a walk-out basement and Comparable 3 has no basement finish at all. Only, the subject and Comparable 4 have exterior veneer. These points of difference also affect the assessments. Finally, only Comparable 4 has more fireplaces,

functioning or not, compared to the subject's three fireplaces. Each of the subject's fireplaces adds \$9,020 to the assessment before depreciation and other adjustments. These differences explain the variations in the assessed values of the subject and Comparables.

The Board of Review offered no testimony.

Analysis & Conclusions of Law

Keshwani contends the subject property is inequitably assessed. § 441.37(1)(a)(1). She bears the burden of proof. § 441.21(3).

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). Keshwani offered no evidence of the Assessor applying an assessment 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 values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Keshwani submitted four properties she believes support her claim, but none sold in 2018. Moreover, a showing of the subject's actual value is also required. The subject property did not recently sell, nor did Keshwani offer evidence of its January 1, 2019 market value. Accordingly, the *Maxwell* test cannot be completed.

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. All of Keshwani's comparables have different features and amenities which explain their differing assessments. Since the Board of Review was not made aware of Keshwani's asserted deficiencies regarding her fireplaces and lake front deterioration, she may wish to contact the Assessor's Office and request an inspection prior to the next assessment cycle to ensure her property is properly listed.

Viewing the record as a whole, we conclude that Keshwani failed to show her property is inequitably assessed.

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.

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).



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

Copies to:

Anita Keshwani by eFile
Polk County Board of Review by eFile