

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

PAAB Docket No. 2019-077-10148R

Parcel No. 291/00065-387-000

**Richard Rose (Trustee),**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 18, 2020. Richard Rose was self-represented. Assistant County Attorney David Hibbard represented the Polk County Board of Review.

Richard and Jacquelynn Rose and Richard and Jacquelynn Rose Joint Revocable Trust, own a residential property located at 2132 NW 135th Street, Clive, Iowa. Its January 1, 2019, assessment was set at \$312,300, allocated as \$52,700 in land value and \$259,600 in building value. (Ex. A).

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

The Roses then appealed to PAAB re-asserting their claims.

## **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 two-story home built in 1990. It has 2505 square feet of gross living area, an unfinished basement, an open porch, a deck, and a three-car attached garage. The site is 0.230 acres. The improvements are listed in above-normal condition with a 3+10 Grade (good quality). (Ex. A).

Richard Rose testified regarding the nature of their claim. First, he noted the land values for nearby properties are valued with some similarity at approximately \$52,000; however, he believes his lot's assessment is too high due to drainage issues. He stated his lot sits approximately ten feet below grade from 136th Street. As a result, drainage from neighboring properties ends up in his yard resulting in pooling water on his property. He also contends his lot, on the west side of 135th street, is smaller and swampy compared to the lots on the east side of the street and thus would sell for less.

Based on his observations, he believes his land value should be reduced to \$40,000. He acknowledged this issue existed when he protested his 2017 assessment to the Board of Review.

Rose compares his property's assessment with the assessments of three nearby homes. PAAB took judicial notice of the property record cards and cost sheets for these properties, which are summarized in the following table. (Exs. A & 1-3).

Property	Gross Living Area	Grade	Condition	Garage Area	Garage Cost New	Land/ Dwelling Assessed Value	Total Assessed Value
Subject	2505	3+10	Above Normal	789	\$29,477	\$57,000/ \$259,600	\$312,300
1 - 2230 Country Club	2518	3+05	Normal	660	\$24,651	\$57,100/ \$243,800 <sup>1</sup>	\$300,900
2 - 12886 Hickory Ct	2520	2-05	Normal	528	\$23,464	\$73,100/ \$217,300	\$290,400
3 - 2151 NW 136th	2470	3+05	Normal	484	\$20,139	\$52,700/ \$233,200	\$285,900

Rose has not had his home appraised or evaluated by a realtor. To arrive at his opinion of value, he compared his assessed dwelling value and the assessed dwelling values of his comparables divided by the gross living area of each property. These calculations indicate a range of \$86 to \$97 assessed dwelling value per square foot, compared to the subject's \$104 assessed dwelling value per square foot. Based on this Rose believes his improvements should be valued at \$94 per square foot, or \$235,470. He then adds this to his opinion of \$40,000 in land value for a total value of \$275,500. We note this conclusion is lower than all of his comparable properties' assessments and none of the comparables have recently sold.

While the Roses' selected comparables are two-story homes with similar age, gross living area, and quality grade as the subject, their main differences stem from the

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<sup>1</sup> This property has a swimming pool that contributes approximately \$7293 to the dwelling value.

condition rating and garage area. The subject is listed as above-normal condition and the comparables all have a normal rating. This results in the subject having less depreciation (11%) deducted from the assessment as compared to the other properties with more depreciation (13-15%). (Exs. A, 1-3). Lower depreciation results in a higher assessed value. Rose testified he did not understand the above-normal condition rating of his home asserting it is a “plain Jane” home.

Additionally, the Roses’ property has the largest garage. The subject and Comparable 1 have a three-car garage; Comparables 2 and 3 have two-car garages. The subject’s garage accounts for \$29,477 of its value, which is between roughly \$4800 to \$9300 more than the three properties Rose offered for comparison.

Comparable 2 has a higher land value than the subject, but is larger than the subject. (Ex. 2). Comparables 1 and 3 are located in the same neighborhood pocket as the subject (A4) and their land is more similar in size and valued much more like the subject. (Ex. 1 & 3). In fact, Comparable 3 and the subject property are the exact same size and have been valued the same. (Ex. A & 3).

Chief Deputy Assessor Amy Rasmussen testified on behalf of the Board of Review. She stated that Roses’ comparables had differences from the subject that are meaningful in their valuation. Most notably, the condition rating and the garage size impact the subject’s valuation and results in a higher assessment as compared to the properties Rose selected.

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

The Roses contend the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2). They bear 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). The Roses

have failed to show any improper variation in assessment methodology among the properties.

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 (2018 sale) and assessed (2019) 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. None of the Roses' comparables recently sold, so we cannot complete a sales/ratio analysis.

To establish that their property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the Roses 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).

In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." *Id.* Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). As with an equity claim, it is insufficient to simply compare assessments to support an over assessment claim.

The Roses submitted three properties for comparison, but none had recently sold. The comparables each had different features and amenities from the subject that could account for their differing valuations, of specific note is the variation in the size of garages and the condition ratings. Likewise, though Mr. Rose may be correct that water drainage issues, depending upon their severity, may have an effect on a property's

desirability and value, he offered no support for the value he arrived at for his lot. Thus we conclude the Roses failed to offer evidence of the January 1, 2019 market value of their property which is typically done by an appraisal, a Comparable Market Analysis (CMA), or comparable sales, adjusted for differences from the subject.

If the Roses believe their property's condition rating is incorrect or there are negative externalities, such as the water drainage issues Mr. Rose described, that affect the appeal and value of their site, they may wish to request an inspection by the Assessor's Office prior to the next assessment cycle.

Viewing the record as a whole, we find the Roses failed to support their claims.

### **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.



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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

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