

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

PAAB Docket No. 2020-101-00023R

Parcel No. 14103-83012-00000

Janice Keyes,
Appellant,

vs.
City of Cedar Rapids Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 24, 2020. Janice Keyes was self-represented. Alex Van Buer, City Appraiser, represented the City of Cedar Rapids Board of Review.

Janice and David Keyes own a residential property located at 1148 Staub Court, NE, Cedar Rapids, Iowa. Its January 1, 2020, assessment was set at \$165,000, allocated as \$26,500 in land value and \$138,500 in dwelling value. Keyes petitioned the Board of Review contending her assessment was not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1)(a) (2020). (Ex. C).

The Board of Review denied the Petition. (Ex. B).

Keyes then appealed to PAAB re-asserting her inequity claim and also asserting her property is assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(1)(b).

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 one-story home built in 1954. It has 1334 square feet of gross living area, with 585 square feet of rec-room quality basement finish, an open porch, a deck, and a two stall attached garage. The improvements are listed in above-normal condition with a 4+10 Grade (average quality). They receive a 5% functional obsolescence as over-sized. The site is 0.214 acres. (Ex. A).

Keyes purchased the home in 2003 for \$130,000. She protested her 2019 assessment which was set as \$170,100. The Board of Review reduced the assessment to \$165,000. (Ex. A). Later in 2019, Keyes applied for a home equity line of credit and her lender obtained a Home Valuation Explorer (HVE) through Freddie Mac. (Ex. 1). The HVE report dated May 3, 2019, estimated the market value of the subject property at \$154,477.

Upon receipt of the report, Keyes testified she contacted Alex Van Buer, an appraiser with the Cedar Rapids' Assessor's office, and was told that her assessment would change in 2020, but she would need to appeal the 2019 Board of Review decision to PAAB. Keyes stated she missed the deadline to timely appeal the 2019 assessment and when the 2020 assessment did not change she commenced this action. She asserts she is really complaining about the 2019 assessment and does not

believe the assessment was sufficiently reduced. She requests her assessment be reduced to \$156,600, the amount of her 2018 assessment. (Appeal).

Keyes submitted the Freddie Mac HVE report consisting of ten properties to illustrate her property's market value. (Ex. 1). The report lists only the address, year built, living area and bedroom/bathroom counts, sale date, and price for each of the sales. The Board of Review offered details of each property, including actual above-grade living area, condition, style, and neighborhood. (Exs. G & J). A comparison of the exhibits reflects that the HVE includes basement finish in the total living area, which over reports the square footage and underreports the sale price per square foot calculations.¹ The following table summarizes these comparables and corrects the gross living area and price per square footage using the data provided by both parties.

Comparable	Year Built	Gross Living Area (SF)	Basement Finish	Condition	Style	Sale Price	SP/SF
Subject Property	1954	1334	585	Above-Normal	1 story	NA	NA
1- 1024 Staub Ct NE	1946	1578	0	Above-Normal	1.5 story	\$146,000	\$92.58
2 – 1038 31st St NE	1955	1564	501	Above-Normal	1.5 story	\$138,000	\$88.24
3 - 1133 27th St NE	1948	1432	460	Normal	1 story	\$155,000	\$108.24
4 -1350 Elmhurst Dr NE	1942	1174	264	Normal	1.5 story	\$152,500	\$129.90
5 -2920 Wildwood Ct NE	1952	1168	770	Normal	1 story	\$146,400	\$125.34
6 -915 29th St NE	1956	1429	1000	Normal	1 story	\$141,000	\$98.67
7 - 3114 Eastern Ave NE	1956	1331	374	Above-Normal	1 story	\$150,000	\$112.70
8 -1060 Prairie Dr NE	1953	1160	308	Above-Normal	1 story	\$155,000	\$133.62
9 - 744 29th St NE	1956	1660	659	Above-Normal	1 story	\$166,250	\$100.15
10- 744 Staub Ct NE	1951	1339	571	Above Normal	1 story	\$142,500	\$106.42

¹ For example, the HVE reports the subject's living area as 1918 square feet. The property record card reports gross living area of 1334 square feet and basement finish of 585 square feet. Similarly, the HVE reports Sale 3 with 1891 square feet which consists of 1432 square feet of main living area plus 460 square feet of basement finish. The living area reported for Sales 4, 5, 6, 7, 8, and 9 also appears to reflect basement finish and other amenities included in the living area.

Only Sale 8 transferred in 2019, the remaining properties sold in 2018. This property is smaller than the subject both in GLA and basement finish, and sold for \$155,000.

Only Comparables 1, 2, and 3 are in the same map area as the subject. The remaining seven are in a different nearby map area that has a market factor 10% lower than the subject. (Exs. G & J). Comparables 1, 2 and 4 are different in style from the subject, and potentially less comparable for this reason. The Board of Review noted three of the comparables differ with the presence of attic finish and most have differing amounts of basement finish and garage sizes. The HVE, however, did not make any adjustments to account for these differences. In fact, no adjustments were made to any of the comparables to account for differences between them and the subject property. The report also notes “an HVE value is not an appraisal and was not prepared by a certified or licensed appraiser.”

Using the corrected living areas of the subject and the comparables reflects the subject’s assessed value per square foot is \$123.69, and within the range of the comparables sale price per square foot from \$88.24 to \$133.62. No information regarding the assessed values of the comparables was provided.

The Board of Review called no witnesses and relied upon its submitted exhibits. It submitted five sales for its analysis which are summarized in the following table. (Exs. H-J).

Comparable	Year built	Gross Living Area (SF)	Basement Finish	Condition	Style	Sale Price	SP/SF
Subject Property	1954	1334	585	Above-Normal	1 story	NA	NA
1- 606 27th St NE	1955	1520	590	Above-Normal	1 story	\$174,900	\$115.07
2 – 637 Staub Ct NE	1967	1304	900	Above-Normal	1 story	\$177,000	\$135.74
3 - 663 Staub Ct NE	1964	1124	681	Above-Normal	1 story	\$162,500	\$144.57
4 -1060 Prairie Dr NE	1953	1160	308	Above-Normal	1 story	\$155,000	\$133.62
5 -744 29th St NE	1956	1660	695	Above-Normal	1 story	\$166,250	\$100.15

The Board of Review's Comparables 4 and 5 are the same as Keyes' Comparables 8 and 10. Comparables 1, 2, and 4 sold in 2019; in 2020 Comparables 1 and 2 were assessed for \$168,900; and \$178,200, respectively. All are similar in style and condition to the subject, and they bracket its size. Comparables 1 through 3 are all in the same neighborhood and have the same map factor. All except Comparable 4 have two-stall attached garages like the subject. The sale prices range from \$155,000 to \$177,000, and sale price per square foot range from \$100.15 to \$144.57

The Board of Review also submitted three properties located on Staub Court NE to illustrate equity. (Ex. E). These properties are similar in age, style, and location, although two are listed in normal condition and all three have only a one-stall garage. Their assessments range from \$148,200 to \$162,800. The record does not indicate that any of these properties have recently sold.

Analysis & Conclusions of Law

Keyes contends the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1)(a & b). She bears the burden of proof. § 441.21(3). While Keyes marked inequity² on her appeal form, her statement of her grounds for appeal as well as her evidence indicated her belief that her property's

² 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). Keyes 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 (2019) and assessed (2020) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales (2019) and current year assessments (2020) of the subject property and comparable properties. It is insufficient to simply compare the subject property's assessed value to the assessments of other properties.

There are only three 2019 sales in the record with reported 2020 assessed values: the Board of Review's market comparables 1 and 2. The assessment/sales ratio for these properties is 0.97 (Comp 1) and 1.00 (Comp 2). This limited information suggests properties are assessed at or very close to their market value.

market value is less than her assessment. Thus we focus solely on her claim that her property is over assessed.

Keyes argued it is her 2019 assessment that should be changed to reflect the value established in the HVE she submitted. A property owner may challenge an assessment made in a previous year on the ground that a “clerical or mathematical error has been made in the assessment.” § 441.37(2)(a). This claim may only be made for a year “in which the taxes have not been fully paid or otherwise legally discharged.” *Id.*

A clerical or mathematical error, is one of writing or copying. Such an error results in the recording of an assessment figure that was not intended by the assessor. In contrast, an assessment entered in an amount intended by the assessor is not the result of clerical error even though an error of judgment or law affected the assessor’s determination of the property assessment. That is because an error in judgment or a mistake of law is an error of substance; it is not a clerical error.

American Legion, Hanford Post 5 v. Cedar Rapids Board of Review, 646 N.W.2d 433, 439 (Iowa 2002) (emphasis in original).

In this instance, the substance of Keyes’ argument is not that the Board of Review or Assessor made a clerical or mathematical error in the previous assessment, but rather an error of judgment was made. Therefore, we must conclude Keyes failed to establish her claim relating to the previous assessment of the property. We therefore examine the evidence to determine if the subject property is over assessed for the 2020 assessment year.

To establish that her property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), Keyes 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*, 457 N.W.2d at 597. “When sales of other properties are admitted, the market value of the assessed property 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.” *Soifer*, 759 N.W.2d at 783. As with an equity claim, it is insufficient to simply compare assessments to support an over assessment claim.

Keyes’ HVE considered ten properties for comparison to the subject property to establish an estimated range of value and probable market value. The report contained multiple errors in the calculation of the subject’s and comparables’ living areas, resulting in an undervaluation of the price per square foot of most of the sales. Only one sale occurred in 2019. The majority of properties were located in a different neighborhood than the subject. Several were of different style and condition than the subject, or had differing amenities. Most importantly, no adjustments were made for these factors. Additionally, although the Board of Review provided narrative information regarding the properties in the HVE, nothing in the record allows PAAB to determine that the sales therein were normal, arm’s-length transactions. Finally, as noted, an HVE is not an appraisal. In this case, considering all of these factors, we do not find that it is competent evidence to show the subject’s market value is less than the current assessment and therefore the burden of proof has not shifted to the Board of Review.

Even if we were to consider the HVE competent evidence, we are unable to find its valuation conclusion to be credible. As explained by the Board of Review, many differences in the properties contained in the HVE could account for the differing sale prices of the comparables, raising questions of their comparability without adjustments for said differences. The four most recent 2019 sales transferred for \$155,000 (HVE Comparable 8); \$174,900; \$177,000; \$162,500 (Board of Review Comparables 1-3, respectively). The low end of this range is set by a property in a different neighborhood. Moreover, the subject’s assessment falls within this range, and considering it is neither

the smallest of the properties, nor the largest, we must conclude the evidence does not demonstrate the subject property is over assessed.

Viewing the record as a whole, we find Keyes failed to support her claims.

Order

PAAB HEREBY AFFIRMS the City of Cedar Rapids Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2020).

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:

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