

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Timber Wolf Valley, LLC,

Petitioner-Appellant,

v.

Marshall County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 11-64-0141
Parcel No. 11-24-400-002**

On September 17, 2012, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. John Peart, an owner, represented the Appellant Timber Wolf Valley, LLC. County Attorney Jennifer Miller is counsel for the Marshall County Board of Review. Assessor Craig Madill represented the Board of Review at hearing. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Timber Wolf Valley, LLC, owner of a commercially classified property located at 2552 Smith Avenue, Marshalltown, Iowa, appeals from the Marshall County Board of Review regarding its January 1, 2011 property assessment. The \$997,920 assessment is allocated as follows: \$366,750 in land value and \$631,170 in improvement value.

Timber Wolf protested its assessment to the Marshall County Board of Review. On the protest, it contended there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. A letter attached to the petition essentially asserts the subject property is over-assessed. Additionally, we note that in a re-assessment year, a challenge based on downward change

in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review granted the protest in part by reducing the total assessment to \$690,510, allocated as \$366,750 in land value and \$323,760 in improvement value. According to the property record card, the reduction was made by lowering the grade and applying a 50% functional obsolescence adjustment for deferred maintenance throughout the park and only a small number of pad sites being rented.

Timber Wolf then appealed to this Board reasserting its claim and contending the correct value of the subject property is \$540,000. At hearing, Timber Wolf modified the value it seeks for the property to \$150,000, which is the price it paid for the property in August 2010.

The subject property is a 37.42-acre manufactured home park. The property is improved with a one-story frame building built in 1976, which is listed as a single-family residence.¹ The residence has 1200 square feet of above grade finish, 1200 square feet of basement area, and a 300 square-foot deck. There is also an additional 684 square-foot "basement" adjacent and attached to the residence. The property also has an 840 square-foot, detached garage built in 2000.² While there are no other improvements listed on the property-record card, testimony and pictures in the record indicate there are paved streets and pad sites throughout the development. The property record card indicates the pad sites are priced at \$6200 per unit. We assume the \$6200 price per unit includes the cost of the streets and other necessary infrastructure, in addition to the individual pads for each site. Testimony at hearing indicates the property has 167 pad sites.

Timber Wolf's owners, John and Dana Peart, testified at hearing. John reported only 41 of the 167 sites in the park are currently occupied. The petition, however, noted that as of January 1, 2011,

¹ At hearing, Timber Wolf asserted the improvements were incorrectly reported as a single-family residence, asserting it is an apartment on the upper level with the basement being used for mechanicals providing water services for the park.

² At hearing, Timber Wolf asserted this improvement was not located on its site. The property record card indicates it is situated on Lot 147.

65 sites were occupied. John provided copies of photographs showing general deterioration throughout the park, including cracked and crumbling streets, abandoned mobile homes that require costly removal, and antiquated pump systems for water maintenance in the park. He also explained the improvement listed as a single-family residence on the property-record card was actually an apartment on the main level, and the basement is used for the mechanicals and other storage needs of the park. Additionally, John testified he did not believe the garage listed on the property-record card is actually located on the subject property.

John provided rent rolls showing the limited income from the property, as well as profit/loss statement and Schedule E for 2011 showing a loss. We note the Board of Review does not dispute the subject property's condition or the declining rent rolls and loss in profit. John also provided portions of the mortgage showing the purchase of the subject property from Wells Fargo in August 2010 for \$150,000. Again, the Board of Review does not dispute the purchase price.

John also testified that he believes the subject property should have an assessed value of \$150,000, because they purchased it for this price. However, Timber Wolf purchased the property directly from Wells Fargo bank. Because the purchase was from a bank as a result of a foreclosure, it is considered an abnormal transaction. Under Iowa law, abnormal sales transactions are not to be considered for determining the assessed value of a property unless the purchase price is adjusted to account for this factor.

Dana Peart also testified regarding the condition of the subject property and the use of the improvements. Her testimony was consistent with John's testimony. She did not add any new information.

Marshall County Assessor Craig Madill testified for the Board of Review. Madill explained the Board of Review agreed with Timber Wolf's position at its hearing and lowered the assessment based on the number of pads rented at that time. He also acknowledged he was aware of additional

decline in rental pads since that time; however, as of January 1, 2011, he believed the property had 65 sites rented.

Madill also testified he reviewed the property for the January 1, 2012, assessment because of this appeal. He indicated he re-visited and re-priced the improvements for 2012. He also re-priced the property in very poor condition with 51 spaces rented, and changed the land's obsolescence from 10% to 15%. Lastly, Madill provided support for the improvements' 2012 value by including single-family sales he considered for comparable analysis. Ultimately, he lowered the January 1, 2012, assessment to a total value of \$518,170. This information may be important to Timber Wolf; but, because it is for the January 1, 2012, assessment we give it no consideration as it is not relevant to the January 1, 2011, appeal.

Based upon the foregoing, we find Timber Wolf has provided insufficient evidence to support a claim of over-assessment. Other than the abnormal purchase price, Timber Wolf did not provide any sales of comparable properties to help establish a market value of its property. Nor did it provide any other evidence to show the property's market value.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board 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 that the assessed value is correct. § 441.37A(3)(a).

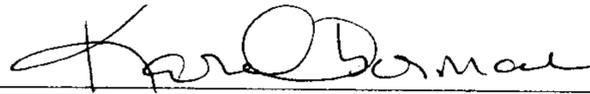
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Timber Wolf did not offer sufficient evidence of the correct fair market value of the subject property. While it did offer the purchase price, the sale was not a normal arms-length transaction, and thus, not determinative of fair market value. A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

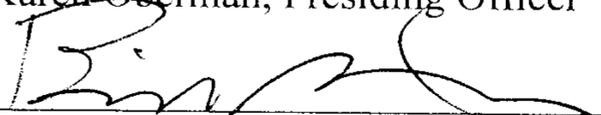
We therefore affirm the assessment of Timber Wolf Valley, LLC's property as determined by the Marshall County Board of Review.

THE APPEAL BOARD ORDERS the assessment of Timber Wolf Valley, LLC's property located at 2552 Smith Avenue, Marshalltown, Iowa, of \$690,510, as of January 1, 2011, set by Marshall County Board of Review, is affirmed.

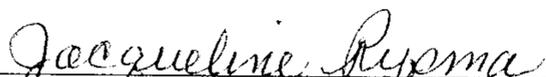
Dated this 17 day of October, 2012.



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

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REPRESENTATIVE FOR APPELLANT

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-17</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	