

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

PAAB Docket No. 2015-091-01168C

Parcel No. 63-400-17-0470

Diligent Warrior Run, LLC,

Appellant,

vs.

Warren County Board of Review,

Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on June 6, 2016. David Brown, a Manager for Diligent Warrior Run, LLC, represented it. Warren County Assessor Brian Arnold represented the Warren County Board of Review.

Diligent Warrior Run is the owner of a commercially classified golf course located at 3089 North Avenue, Norwalk. The golf course and its improvements were constructed between 1999 and 2001, it has nine holes, a clubhouse, and a parking lot. The site is 101.2 acres.

The property's January 1, 2015, assessment was \$1,149,000, allocated as \$404,800 in land value and \$744,200 in improvement value. On its protest to the Board of Review, Diligent Warrior Run filled in the portion of the petition claiming the property was inequitably assessed and was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition.

Diligent Warrior Run then appealed to PAAB. On appeal, its sole claim is that the subject is over assessed and its correct fair market value is \$920,100.

Findings of Fact

Diligent Warrior Run submitted a letter detailing its claim. Diligent Warrior Run notes the assessment allocates value between the golf course land and improvements. (Ex. 1). It contends the portion of the assessed value attributed to the clubhouse and parking lot, a total of \$398,900, is incorrect. To support its claim, it submitted an appraisal of these improvements. It claims the actual value of the clubhouse and parking is \$170,000, and the total assessment should be reduced to reflect this difference.

Diligent Warrior Run's appraisal was completed by Samuel Schumacher of West Des Moines. Schumacher valued the property's club house and parking as of January 8, 2015. It does not appear that Diligent Warrior Run submitted the entire appraisal for consideration and it is unclear what the intended use of the appraisal was; but it appears it may have been prepared for listing purposes.

Using four sales, Schumacher concludes a value for the improvements of \$170,000. First, the most recent of Schumacher's sales is from January 2013 (Sale 3). The remaining sales occurred in 2010 (Sales 1 and 2) and 2012 (Sale 4). Schumacher makes no adjustments for these dated sales. Schumacher also used a foreclosure sale (Sale 1) but did adjust for this factor. Sale 4 changed uses subsequent to the sale as it was being converted to single family residence. For these reasons, we do not believe these sales reflect the subject's fair market value as of January 1, 2015.

Moreover, Schumacher's appraisal does not take into account the property, as a whole, in its current use. Schumacher instead values only the improvements as if they were converted to a different use. Additionally, it is unclear how he addresses the land underlying the comparable sales, which have between roughly one- to ten-acres included in their sale price.

The Board of Review submitted a letter authored by Assessor Brian Arnold. (Ex. D). The letter describes the subject property's previous and current uses. The letter states that Diligent Warrior Run purchased the property in 2013 for \$1,515,000 (Ex. C), and at that time the course had eighteen holes. Then, nine of the original eighteen

holes were removed and converted to agricultural use. Now, that same area is being developed into a residential use, known as Warrior Run Estates Plat 1.

The Board of Review asserts that Diligent Warrior Run's appraisal considers a hypothetical condition and potential future use. The Board of Review additionally asserts Diligent Warrior Run has failed to show the total value of the subject property as a nine-hole golf course with a clubhouse and parking lot.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB 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). PAAB considers only those grounds presented to or considered by the Board of Review, but 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(1)(a-b). New or additional evidence may be introduced, and 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 that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

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 to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Diligent Warrior Run submitted what appears to be only a portion of an appraisal completed by Samuel Schumacher. The portion of the appraisal fails to indicate it is considering a hypothetical use of the subject property and does not value the whole property, including the golf course. It is undisputed that the subject property is currently used as a nine-hole golf course with a clubhouse and parking. Yet, the appraisal seeks to value the clubhouse and parking as if they were separated from the golf course and used for other purposes. However, there is no indication that such legal separation exists. Rather, it appears Diligent Warrior Run is operating the golf course and clubhouse/parking as a unit and it must be valued as such. Schumacher also used dated sales and asserts he is valuing only the improvements despite the comparable sales having land included in the sale price.

The only value Diligent Warrior Run has attempted to show is the value of the improvements if sold separately from the land and converted to a different purpose than its current use. For these reasons, the appraisal is unreliable for assessment purposes.

Order

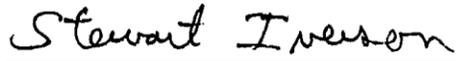
IT IS THEREFORE ORDERED that the Warren County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). 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 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 17th day of June, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

David Brown

Warren County Board of Review