



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Progressive Rehabilitation Institute, LLC  
DOCKET NO.: 02-20933.001-C-2 through 02-20933.006-C-2  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Progressive Rehabilitation Institute, LLC, the appellant; by attorney Donald Schramm of Rieff Schramm & Kanter in Chicago; the Cook County Board of Review by Assistant State's Attorney Joel Buikema with the Cook County State's Attorneys Office; the Board of Education, intervenor, by attorney Scott R. Metcalf of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
02-20933.001-C-2	11-29-302-016-0000	36,230	1,814	\$38,044
02-20933.002-C-2	11-29-302-017-0000	36,423	571	\$36,994
02-20933.003-C-2	11-29-302-018-0000	57,693	508	\$58,201
02-20933.004-C-2	11-29-307-019-0000	29,521	64,519	\$94,040
02-20933.005-C-2	11-29-307-020-0000	29,557	61,713	\$91,270
02-20933.006-C-2	11-29-307-022-0000	72,166	154,284	\$226,450

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of 60,192 square feet of land improved with a three-story, masonry building used as a pediatric care facility. The improvement was built in 1969 and contains 38,472 square feet of building area as well as an 12,824 square feet of basement area. The facility is licensed for 150 beds, therapy rooms, dining areas and offices.

At the commencement of this hearing, the PTAB dealt with several procedural matters relating to motions made by the parties. First, the board of review moved to exclude witnesses during the proceedings. Without objections from the remaining parties, the PTAB granted the motion to exclude witnesses.

Second, the appellant verbally renewed prior written motions enconced within the appellant's rebuttal evidence. Specifically, Mr. Schramm made a Motion to Strike the Board of Review and the Intervenors' Evidence Submissions as well as a Motion For Summary Judgment. He asserted an objection to the submission of comparative sales data from the board of review and the intervenor. Assistant State's Attorney Buikema on behalf of the board of review argued that procedurally these motions should fail because the appellant included these motions in the guise of rebuttal argument and further asserted that the board of review's evidence had been timely submitted and was probative. Mr. Metcalf on behalf of the intervenor argued that not only was the evidence timely submitted, but that the probative value of the evidence is not diminished because it is comparative sales data. After considering the parties' positions, the hearing officer denied the appellant's motions.

As to the basis of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

As to the overvaluation argument, the appellant's first witness was Cathy Ann Singer, a 15-year employee of the corporation, Dobson Plaza, which operates the subject facility. Ms. Singer testified that her duties include: assisting the owner of the subject property; managing the subject facility; and working on various projects for the owners of the subject facility as well as being the contact person for the subject's staff. She stated that the subject had been owned for the last seven years by Dobson Plaza, which also owns another such property in Illinois identified as Birchwood Plaza. Singer further stated that she would respond to telephone calls regarding billing, supplies, as well as bank inquiries regarding both facilities; however, she is not physically employed on-site at the subject property. Moreover, she testified that she has walked the halls of the subject property, but not very often because the projects she handles do not call for her to be on the subject's premises.

As to the subject property, Singer indicated that the subject is used as a skilled nursing facility, specifically a pediatric rehabilitation service for patients under 18 years of age. She stated that the subject offers care which may include the use of ventilators, feeding tubes, as well as a tremendous amount of skilled care. In addition, she stated that a certificate of need or a license authorized by the Illinois Department of Public Health (hereinafter IDPH) is required to operate such a facility. To her personal knowledge, she indicated that an IDPH certificate

of need is based on the need in a particular geographic area for more licensed beds. She provided a less than detailed explanation of how IDPH looks at the physical structure of a building as well as a range of "other items" when considering the granting of a license; further, she admitted that she is not always on the subject premises when the IDPH is conducting such an evaluation. She opined that licensing or relicensing undertaken by IDPH is based upon all of the above as well as consideration of the proposed population of the facility such as geriatric versus pediatric patients.

Singer testified that the variation between geriatric versus pediatric care relates to the furnishings and to the equipment being properly fitted to the physical size of the patients, such as toddlers versus adults. In addition, she stated that the staffing ratios would differ roughly from 1:6 in pediatric care versus 1:10 in geriatric care.

As to the subject's physical description, Singer stated that in tax year 2002 there were 150 beds in operation with less than 50% in use. She also indicated that each bedroom contains a bathroom, while detailing the furnishings and equipment used at the facility. She further expounded that all of these items are portable with only a call system and privacy curtains permanently affixed in the rooms.

As to the licensing of the subject property, Singer testified that to her personal knowledge there was an attempt by the operating corporation to be licensed for geriatric care, which was denied. She indicated that the only basis for denial to her personal knowledge was that the area did not warrant the need for additional licensed skilled beds for a geriatric population. She also indicated that the subject's patients are on public aid versus private pay.

Although she clearly responded to questions on direct examination, under cross-examination, Singer's memory became less than sagacious. She indicated that she is not normally involved with purchasing or payroll matters; the facilities' financial accounts; or the day-to-day duties undertaken at the facility. After several attempts to elicit a response, she finally responded under cross-examination that the nurse to patient ratio would prompt a decrease in staffing and costs if the subject became a geriatric care center.

As to the subject's physical premises, she candidly stated that there are no items affixed in a geriatric room that are not affixed in a pediatric room. However, when cross examined regarding the square foot comparison of a geriatric and a pediatric room, Singer initially and affirmatively testified that there would be a size variance, but later contradicted herself by stating that she could not respond to specific questions regarding any size disparity.

Regarding the subject's financial records after several questions on cross-examination, she did partly indicate that she was less than familiar with the subject's financial operations or with billing statements to or payments from Public Aid. Further, she opined that in 2002 the subject property operated at a loss, but as of this hearing date in 2009, she confirmed that the subject property was still operating as a pediatric care facility. Under cross-examination, Singer initially stated that she was familiar with the operating statements for the years 1999 through 2001. Thereafter, she contradicted her earlier statement by testifying that she had no personal knowledge either about the management fees totaling \$300,000 reflected on those same operating statements or about who was the recipient of those monies. Moreover, she indicated that there was no management company for the subject premises, while general administrative staff is paid out of a distinct line item in the operating statement.

The appellant's pleadings included a copy of two summary reports of complete appraisals undertaken by appraiser, Joseph Ryan. As appellant's witness #2, Ryan testified that he holds the designations of a Member of the Appraisal Institute (hereinafter MAI) and a Certified Illinois Assessing Official (hereinafter CIAO), which he indicated had lapsed. He stated that he is a licensed real estate appraiser in Illinois, Indiana and Michigan. In addition, he indicated that he had worked at the Cook County Assessor's Office from 1980 to 1985. Ryan, whose credentials were stipulated to by the parties, was called as an expert in the field of real estate valuation and accepted by the PTAB as such.

The Ryan appraisals were marked and identified for the record as Appellant's Exhibit #1, which was an appraisal that addressed only the cost approach to value with an opinion of market value at \$755,000 as of the effective date of January 1, 2002. This exhibit has a transmittal date of December 11, 2002 reflecting the purpose of estimating the fee simple estate value of the subject as of January 1, 2002 with an intended use by only the client to provide a basis for equitable real estate assessment. In addition, Appellant's Exhibit #2 was a companion appraisal, which addressed the three traditional approaches to value, while opining an estimated market value of \$755,000 as of the effective date of January 1, 2002. This companion exhibit also has a transmittal date of December 11, 2002 reflecting the purpose of estimating the fee simple estate value of the subject as of January 1, 2002 with an intended use by only the client to provide a basis for equitable real estate assessment. Moreover, both reports indicate an inspection date of December 4, 2002.

Within Appellant's Exhibit #1 and #2, the subject's facility was described by Ryan as containing two-bed or four-bed rooms using 140 beds total at any time. He testified that his understanding was that the subject property was the only facility so licensed in the City of Chicago, while there were allegedly eight such facilities licensed in Illinois. Ryan opined that the trend in

this industry was for at-home care for pediatric patients because institutionalized skilled-care expenses were so high with the industry predicting that such institutionalized care only increasing in cost in the future. In addition, he stated that it was his understanding after speaking with the subject's owner, Charlotte Kohn, that a pediatric care facility is limited to that use of the property as opposed to geriatric or skilled care. Ryan also stated that during these conversations, the owner indicated that there had been an attempt to obtain other care licensing, which was allegedly denied. He indicated that the subject's zoning would permit residential use, but not commercial usage. During his testimony, he referred to the inclusion of the subject's historical operating costs, while stating that the property appeared to have a 41% occupancy rate.

Under cross-examination, Ryan testified that he did not recall who told him or why the subject could not obtain another care license. In addition, he could not recall any reason for the alleged denial of another license for the subject property. However, he noted that it could have been for the monetary cost of property upgrades required to obtain another care license. In support of this statement, Ryan testified that he did recall a conversation with the owners regarding upgrading the facility including fireproofing the walls. Nevertheless, he admitted that he failed to include references to such discussions with ownership in his appraisal report.

On direct examination, Ryan described the subject as consisting of 60,192 square feet of land area improved with a three-story, masonry, building used as a pediatric care facility. This improvement contains 38,472 square feet of aggregate building area as well as a partially finished basement containing 12,824 square feet. Built in 1969, Ryan opined that the building had an overall effective age of 30 years as of the 2002 date of value. He indicated that the interior layout of the building featured 150 patient beds on three floors; however, he noted that due to the low occupancy in the facility that the third floor is vacant except for an office. His appraisal reflected that the subject's improvements are in average condition and indicated that the design and interior configurations would only lend itself to a single-room occupancy hotel or an unlicensed assisted living center.

As to the highest and best use analysis, Ryan's appraisal reflected that the property's highest and best use as if vacant was its development as a senior care facility, even though he testified that there were numerous senior care facilities in the subject's area. As to the subject's highest and best use as improved, the appraisal stated that its present use was most probable, physically possible, and legally permissible. However, Ryan opined that the subject property is currently operating at a loss, hence this use was not financially feasible; therefore, a potential user would most likely purchase the property in order

to demolish it. He asserted that the value of the subject is in the land. Thereby, he indicated that a subsequent highest and best use as improved was for demolition purposes.

In Ryan's analysis, this initial appraisal states that within the subject property's neighborhood, there are many facilities similar to the appraised property in vintage and construction quality. Therefore, based upon a review of these properties and upon inspection of the subject, the subject's effective age was estimated at 30 years. Referring to the Marshall Valuation Service Cost Manual, Ryan indicated that the typical life for the subject's building is 45 years, resulting in a remaining economic life of 15 years.

In Appellant's Exhibit #1, Ryan addressed only the cost approach to value. The initial step under the cost approach was to estimate the value of the site. He used four suggested land sales that ranged in size from 6,920 to 32,730 square feet and in price from \$140,000 to \$650,000, or from \$12.53 to \$30.05 per square foot. These properties sold from May, 1999, through March, 2002. He testified based upon these land sales, his conclusion of land value for the subject was \$15.00 per square foot from a possible range of \$15.00 to \$20.00 per square foot resulting in a total land value of \$900,000 for this subject.

The Ryan appraisal stated that the facility has continuously been operating at a loss, and that an alternative user would most likely demolish the improvements. Therefore, he opined that the value of the subject property is the estimated land value less demolition costs. Using the Marshall Valuation Service Cost Manual, Ryan estimated a demolition cost for the subject using a cost analysis for Class C buildings reflecting a range from \$2.70 to \$3.95 per square foot. Ryan opined that since the subject is a three-story building located on a major commercial artery, that demolitions costs would be at the high end of this range at \$3.75 per square foot or \$144,270. Deducting the demolition costs from the land value resulted in a final market value for the subject of \$755,000, rounded.

In reconciliation, Ryan stated that the subject operated as a unique facility treating children with severe disabilities with 100% of its revenues generated from Public Aid. He opined that the State does reimburse management an amount less than the cost of treatment and care of the children; resulting in an operating loss. He also opined that this loss is not due to management's fault. In Ryan's initial appraisal, his rationale for not employing the income approach to value was that the facility operates at a loss since it is run on Public Aid funds that do not cover care costs. The appraisal stated that his rationale for not employing the sales comparison approach to value was that the property was a unique institution with no comparable sales.

In Appellant's Exhibit #2, Ryan's companion appraisal addressed the three traditional approaches to value in developing the subject's market value estimate. The cost approach reflected a value of \$755,000, rounded; the income approach reflected a value of \$630,000, rounded; and the sales comparison approach indicated a value of \$260,000, rounded. In reconciling these approaches to value, Ryan's appraisal placed main reliance on the cost approach to reflect his final value of \$755,000 for the subject.

As to the subject's community profile, Ryan expounded on the Rogers Park community within the City of Chicago, wherein the subject property is located. Specifically, the appraisal reflected that the subject is surrounded by three-story apartment buildings and single-family residences to the east and west. While to the south of the subject is sited a communal home, with a nursing home to the northwest as well as another to the southeast. In conclusion, Ryan's appraisal stated that the future trend of value for a property such as the subject should remain stable due to the national and local conditions in the real estate market. In addition, he opined that the outlook for the subject property indicated stable real estate values over the short-term.

Further, the companion appraisal described the subject as containing two adjoining land parcels that were level and at grade with the fronting street and totaling 60,192 square feet. The subject's land-to-building ratio was computed to be 1.56:1. As to the subject's zoning, the appraisal indicated that there were several permitted uses including several residential uses such as single-family residences, schools and family community homes.

This appraisal stated that the interior layout of the subject's improvement included 150 patient beds over three floors, one of which was not used except for its office area. Each floor was described as identical containing resident rooms, nurse's station, activity/dining rooms, shower rooms and utility rooms. In addition, the first floor included main offices and restrooms. Each resident room was minimally finished with from two to four manually operated hospital beds, night stand, and dresser as well as a bathroom. His appraisal reflected that the subject's improvements are in average condition and indicated that the design and interior configurations would only lend itself to a single-room occupancy hotel or an unlicensed assisted living center.

As indicated in Ryan's initial appraisal for this subject, he developed the same highest and best use analysis as well as the same effective age of 30 years and remaining economic life of 15 years. Further, Ryan's cost approach in the companion appraisal reflected the exact analysis as in the prior appraisal, which is Appellant's Exhibit #1, estimating a value of \$755,000 for the subject as vacant land after demolition of the improvement.

Ryan's appraisal stated that because the subject is a pediatric care facility, it is a unique property and that there have been no other sales of this type of property within the past three years. However, the companion appraisal noted that the client asked that a sales comparison approach be employed. Ryan opined that the subject could be compared to a nursing home, but that there would be a number of differences that lessen comparability such as the different type of licensing and certification needed to operate the facility. In addition, the appraisal indicated that many recent sales of nursing homes were either between related parties or a sale-leaseback option; therefore, Ryan employed in his analysis older sales within a search area that included other counties outside of Cook County, while making adjustments accordingly.

Under his sales comparison approach to value, Ryan utilized four suggested comparables of nursing home/rehabilitation centers. Three of the comparables are located in the suburban market, while only one property was sited in the City of Chicago. These properties ranged in land size from 14,087 to 315,810 square feet. They sold from October, 1999, through December, 2001, for prices that ranged from \$1,425,000 to \$8,200,000, or from \$45.55 to \$170.50 per square foot before adjustments. The improvements ranged: in beds from 66 to 259; in size from 15,081 to 180,000 square feet of building area; in age from 20 to 30 years; and in land-to-building ratios from 0.58:1 to 4.14:1. In addition, properties 1, 2, and 4 ranged in occupancy levels from 30% to 90%.

As to the sale specifics, the appraisal noted that Sale #1 was a one-story, nursing home, which accepts only private-pay residents. In verifying this sale with a representative of the buyer, Ryan noted that the sale price of \$1,425,000 was for the real estate, with a total consideration of \$2,200,000. Sale #2 was also a nursing home that accepted only private-pay residents. Ryan verified this sale with two sources and noted that the recorded sale price of \$2,900,000 reflected the value of only the real estate portion with an additional \$700,000 paid for the personalty and license for a total consideration of \$3,600,000. Sale #3 is a nursing home facility. Ryan indicated that in verifying this disclosed sale price with the real estate broker, that it reflected both the real estate and business value. Sale #4 is a two-story, nursing home which sold for a price of \$8,300,000 including both real estate and business value as well as a \$100,000 incentive paid to the buyer. However, Ryan testified, at hearing, that he was unable to quantify the dollar amount applicable to business value. Ryan's appraisal reflected no adjustments to the properties for property rights and/or market conditions. However, he did make adjustments for conditions of sale; location, land-to-building ratio; building size; resident mix; square feet per bed; occupancy; as well as age and condition.

After making these adjustments to the suggested comparables, Ryan estimated a unit value for the subject of \$17,500 per bed for a market value of \$2,625,000. However, he opined that this value would have been based on a stabilized occupancy of 90%, while in contrast the subject property historically has a 40% occupancy. Therefore, Ryan believed that the true value of the subject property would be reflected in the application of a tax adjusted capitalization rate of 20.25% to reflect the subject's disparity in actual occupancy. Therefore, Ryan subtracted an occupancy deduction of \$2,366,405 from his prior estimate of value resulting in a new value estimate for the subject of \$258,595 under this approach to value.

Lastly, Ryan developed the income approach to value. Ryan stated that the subject property's revenue stream is 100% Public Aid reimbursement averaging \$212.13 per day per patient. Therefore, he based the subject's potential residential income on rent of \$215.00 per day or \$11,771,250. Less a deduction of 10% for vacancy and collection loss resulted in an effective gross income of \$10,594,125. Actual expenses were detailed over several pages within the appraisal. Further, Ryan testified that he had the operating and expense statements for years 1999 through 2001. Expenses were identified as: nursing, employee welfare, housekeeping and plant, laundry and linen, dietary costs, management fees, assessment fees, as well as general and administrative.

Regarding the subject's actual expenses, Ryan testified that employee welfare related to payroll, taxes and other benefits, while laundry expenses are conducted in-house. Ryan's appraisal stated that the management fees of \$300,000 per year are "the fee that ownership would pay an outside service to manage the facility". It further explains that the assessment fees relate to the IDPH fees applicable to pediatric care facilities of 6% of gross revenues. It was also stated that the general and administrative fees related to administrative and clerical salaries, data processing, equipment rental, insurance, licenses and permits, offices expenses, legal and accounting fees, patient transportation, telephone, activity fees and advertising fees, which Ryan stabilized at \$30.00 per resident day, or \$1,478,250. Thereby, total expenses were identified as \$10,411,230. Less replacement reserves of \$55,500 resulted in a net operating income of \$127,395.

Ryan's appraisal stated that although there were no capitalization rates for the sale of pediatric care facilities, the closest alternative use for the subject would be as a nursing home. Therefore, he researched overall capitalization rates for the national nursing home market. Using the band of investment method, he opined a base capitalization rate for the subject of 12.5%. Using the National Investment Center, Fourth Quarter, 2001, reflected an average capitalization rate of 12.9%, while The Senior Care Acquisition Report reflected an average

capitalization rate of 13.6%. Ryan choose an overall capitalization rate of 13.5% for the subject, while adding a tax load of 6.75% resulting in a loaded capitalization rate of 20.25%. Applying this rate to the net operating income reflected a market value under the income approach for the subject of \$630,000, rounded. Ryan's appraisal noted that this value was inclusive of personalty and business value. His appraisal noted that these two items would normally be deducted from the estimated value, but that he did not make that deduction since the current estimated value is significantly less than the estimated value of the subject's land. Under cross-examination, Ryan testified that in his development of the income approach to value, there was no personal verification of the subject's actual data.

In reconciling the three approaches to value in his companion appraisal, Ryan reiterated his opinion that the subject property operates on a loss. Further, Ryan stated that the subject was a unique institution with no comparable sales and that this approach was only used at the request of the client. Therefore, he stated that the sales comparison approach to value was given minimum weight. As to the income approach, Ryan opined that in this approach an extraordinary assumption of 90% market occupancy rate was used to show that even with far superior occupancy rates, that the estimate value of the building and land is less than the value of the land, only. As to the cost approach, Ryan's appraisal stated that this approach received all the weight in this analysis. Therefore, he testified that his market value estimate for the subject was \$755,000 as of January 1, 2002.

Under lengthy cross-examination, Ryan testified that as of the 5,000 or 6,000 appraisals he has undertaken in his career this is the only subject property wherein he had developed two appraisals with the same effective date. He stated that he believed this subject property's value was less than the land value; therefore, he stopped his initial appraisal after the cost approach. However, he further stated that the client had requested the additional approaches to value be undertaken in order that they could see that Ryan's methodology was correct. In addition, he testified that the second and/or companion appraisal was submitted sometime in early 2003, in contrast to its cover letter, which reflects a transmittal date of December 11, 2002. Nevertheless, under further cross-examination, Ryan admitted that an attorney for his client had requested that he develop all three approaches to value upon receipt of Ryan's initial appraisal. Therefore, Ryan also admitted that the transmittal date on the companion appraisal should have been changed to reflect the later completion of two additional approaches to value for the companion appraisal was not tendered to the client until sometime in January of 2003.

As to the subject property, Ryan admitted that he had not taken any photographs of the exterior or interior of the subject's improvement even though he testified that he had personally visited the subject property either four or five times. However, Ryan did testify that as of the week prior to this hearing, the subject property was still operating as a health care facility for children and young adults. He further stated that the subject's building was in good condition prior to his appraisal and has remained in that condition as of his recent visit to the subject, which is located within a one-block distance from Lake Michigan.

As to details within the companion appraisal, Ryan testified that the operating statements reflected therein were prepared and submitted to his attention by the subject's ownership; however, he stated that he neither recalled discussing these statements with anyone at the subject's facility nor did he obtain an affidavit from any employee who had prepared these operating statements. Moreover, under further examination by the hearing officer, Ryan reluctantly admitted that someone in his office had prepared the operating statements reflected in his appraisal from other documentation obtained from the subject's owners. Ryan indicated that he based his beliefs that the subject was operating at a loss on these unverified operating statements and that if the information on these statements were unreliable or incomplete that could alter his opinion. Upon review of this operating statement, Ryan could provide little, if any, explanation for: what Net Ancillary Revenue consisted of; if resident occupancy levels remained at 40% to 60% from 1999 through 2001, why had nursing costs increased over \$1,000,000 during that three-year time period; who was receiving the management fees of \$300,000 per year, if there was no management company overseeing the subject; where on the operating statements were doctor's costs identified; why were speech and physical therapy costs included in nursing costs on the operating statements, without being identified as such on these statements; and what General Administrative Fees of \$500,000 to \$700,000 per year from 1999 through 2001 specifically consisted of. Ryan did state that since he has valued 50 nursing homes that these properties have the highest operating expense ratio. In addition, he stated that if a business is inefficiently operated, this would affect their profit and losses. Moreover, Ryan admitted that the subject's facility had been previously used as a general nursing home prior to its current use as a pediatric care facility, while he testified that there would be other uses for the subject's facility even considering its design and interior configuration.

Under cross-examination regarding Ryan's cost approach, as to land sale #4, he admitted that this was a 2002 sale. However, he evasively testified that in 2001 the owner may have been the City of Chicago, which deeded the property to the subsequent seller to build an affordable housing project that would have been in the

City's best interests. Nevertheless, Ryan stated that they looked at the transfer declaration for this sale and that they could not locate anything indicating that it was not a good sale. As to Ryan's value opinion under this approach, he indicated a range of market value from \$15.00 to \$20.00 per square foot of land area or from \$900,000 to \$1,200,000 total market value; however, he could provide no elaborative testimony as to why he selected a market value of \$15.00 per square foot rather than \$20.00 per square foot. Moreover, he admitted that several overall adjustments on his land sale grid contained contradictory typographical errors.

As to Ryan's sales comparison approach, he stated that his improved sale properties sold in a range from \$21,000 to \$53,000 per bed. He indicated that he adjusted the comparables to reflect a value of \$17,500 per bed for the subject without further elaboration. He then testified that he further stabilized the subject property on the category of occupancy. He admitted that improved sale comparables #1, #2, and #4 contained occupancy rates of 30%, 59% and 90%, while each sold for values considerably higher than Ryan's final estimate for the subject of \$1,750 per bed. Ryan vaguely asserted that he needed to further reflect the subject in an "as is" value; therefore, he undertook an occupancy adjustment to the subject to reflect a final value. However, he admitted that he did not stabilize any of the improved sale comparables which suffered from reduced occupancies and yet they still sold on the open market. Therefore, Ryan testified that his opinion was that market conditions were not relevant in the sale of his four improved sale comparables. Upon later cross-examination by the intervenor's attorney, Ryan stated that the aforementioned adjustment to the subject property was an "obsolescence" adjustment influenced by the subject's pediatric license. He explained that this obsolescence occurred because the subject's facility was the only such licensed facility in the City of Chicago, and yet, it contained a 40% occupancy.

Furthermore, Ryan briefly reiterated his methodology in developing the subject's "as is" value centering his explanation on the subject's business licensing situation and an alleged inability to obtain other licensing and/or demonstrating an inability to increase the subject facility's occupancy. However, he admitted that he was personally unaware of whether the subject's owners had ever tried to increase the facility's occupancy.

Under further cross-examination of Ryan as to his income approach to value, he testified that his chosen capitalization rate of 20.25% was appropriate for this subject facility because nursing homes experience higher operating expense ratios and higher risk factors. Ryan also confirmed that he relied upon operating expenses given to him by the subject's owners and did not independently verify any of the information therein. When questioned about the lack of enumerated expenses for doctors and

pharmacy costs, Ryan nonchalantly responded that these expenses should be included in the facility's expenses and were probably somewhere in the operating statement. Moreover, he stated that in developing his income approach to value he had discussions with the subject's owners regarding their operations wherein the owners indicated that the subject facility contained historic operating costs of 107% of revenues, which they asserted was due to the 41% occupancy rate. However, he indicated that the owners did not explain why there was a 41% occupancy rate at the subject's facility.

Under re-direct examination, Ryan testified that he generally relies on the financial information provided to him by his clients and does not question the veracity of the owner's data. In addition, he stated that the difference in licensing between pediatric and nursing facilities is the reason why he made an occupancy adjustment to the subject. Further, he indicated that he had already developed a sales and income approach to value at the time he completed his initial cost approach, but that he was asked by the appellant's attorney to put those approaches to value in writing; thereby, producing the companion appraisal. Lastly, on re-direct, Ryan stated that based upon his personal conversations with the subject's owner, Mrs. Kohn, he developed an opinion that the subject's facility was denied a geriatric care license without a review of any official documentation from the IDPH.

Upon examination by the hearing officer, Ryan testified that during his five visits to the subject property that he did not inspect the subject property, but that this task was undertaken by his assistant. Further, he explained that his understanding that the subject was the only pediatric care facility in the City of Chicago was solely based upon his conversations with the subject's owners. Lastly, Ryan testified that in reviewing a 30-year old, commercial property in a hypothetical situation, the cost approach would not be the most valid approach to valuing that property. This concluded the appellant's case-in-chief with a request that the subject's assessment be reduced based upon the evidence and testimony presented.

The board of review timely submitted "Board of Review Notes on Appeal" for tax appeal year 2002 wherein the subject's final assessment of \$544,999 was disclosed. This assessment indicated a market value of \$1,394,397 or \$9,296 per bed or \$36.24 per square foot. However, the PTAB noted that in applying the ordinance level of assessment of 38% for class 5a property as designated by Cook County Real Property Assessment Classification Ordinance to the total assessment reflected a market value of \$1,434,208. At hearing, the assistant state's attorney argued that the board of review stood on its written evidence submissions.

Besides the board of review's notes, a market analysis prepared by Thomas K. Gillespie, Senior Analyst, was also submitted. This analysis included a cover memorandum as well as raw sales data from CoStar Comps Service printouts of four suggested comparable sales sited within the Chicago-area suburbs. The PTAB noted that sale #1 and #4 were sale properties also utilized within the appellant's companion appraisal. These properties sold from September, 2002, through September, 2003, for prices that ranged from \$31,868 to \$62,222 per bed or from \$118.85 to \$162.50 per square foot of building area. The improvements ranged in age from 4 to 34 years and in size from 24,400 to 80,000 square feet of building area. However, Mr. Gillespie was not presented to testify regarding either his qualifications or the methodology used in his report.

The printouts reflected that sale #1 had a prior sale in May of 1997 for \$3,000,000 and that personal property was estimated at \$700,000, which was not included in the sale price. As to sale #2, the printouts reflected a sale-leaseback purchase with personal property estimated at \$478,020, which was not included in the sale price. As to sale #3, the printouts indicated that this nursing home enjoyed a private-pay resident mix. As to sale #4, the printouts indicated that the list price was \$19,000,000, but that the sale price was \$13,000,000. Furthermore, the printouts reflected the statement that the "information herein is obtained from sources deemed reliable, but not guaranteed".

Intervenor, Chicago Board of Education, requested an increase in the subject property's market value. At hearing, the intervenor's attorney argued that the intervenor stood not only on its written brief and submitted evidence, but that the intervenor had previously adopted the written evidence submitted by the board of review. In support of the market value argument, the intervenor submitted a brief and raw sales data from CoStar Comps Service printouts for four suggested comparables. Sale property #4 was also submitted by the appellant as appellant's property #4. In totality, three of the four properties are sited in the Chicago-area suburbs, while only sale #1 was located in the City of Chicago, as is the subject property. These properties sold from December, 2001, through November, 2002, for prices that ranged from \$46.11 to \$143.84 per square foot of building area. The improvements ranged in the number of beds from 146 to 328 beds. Limited descriptive data was submitted for sale #2 and #3. As to sale #1, the printouts indicated that personal property was included in the sale price, while the buyer had exercised a lease option in this purchase. As to sale #3, the printouts indicated that this property had not been advertised for sale on the open market and that the property had a 66% occupancy level. As to sale #4, the printouts reflected a sale price of \$8,300,000, with financing of \$13,400,000 and that the property had a 67% occupancy level.

In written rebuttal, the appellant submitted a two-page document. The appellant argued that two of the sale comparables used by the board of review are also used by the appellant. Thereafter, the appellant disparaged two other sale comparables.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is the basis of the appeal, the value of the property must be proved by a preponderance of the evidence. *86 Ill.Admin.Code 1910.63(e)*. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *86 Ill.Admin.Code 1910.65(c)*. Having considered the evidence presented, with a focus on the comparable sales, the PTAB finds that a reduction is not warranted.

In determining the fair market value of the subject property for tax year 2002, the PTAB closely examined the parties' evidence submissions. The PTAB looks to the two Ryan appraisals and the witnesses' testimony submitted by the appellant as well as the sales data submitted by the board of review and the intervenor.

As to the appellant's position, after hearing the testimony and observing the demeanor of the appellant's initial witness, Ms. Singer, her comments were not relevant to the real estate value of the subject property, while her evasive responses under cross examination did little to add to her credibility. By her own admissions, Ms. Singer was not a physically on-site manager of the subject property; moreover, she testified that there was no management company overseeing the subject property. Further, she stated that she lacked any involvement in hiring, payroll, licensing and/or any nexus to financial activities at the subject property.

Further, the PTAB accorded diminished weight to both of the Ryan appraisals. The PTAB finds these appraisals unpersuasive for Ryan: continually commingled business value and real estate value in all of the traditional approaches to value; proffered conflicting and/or unsupported highest and best uses; relied heavily upon the cost approach to value in estimating a market value for a 30-year old facility; undertook adjustments to the subject property in the sales comparison approach to value for occupancy, while an occupancy adjustment had already been applied to the improved sales comparables; applied a tax adjusted capitalization rate to the subject in the sales comparison approach to value to estimate a market value under this approach; failed to utilize any market data in the income approach to value; and failed to verify actual data relied upon in the income approach to value in estimating expenses. Moreover, Ryan

commingled various steps within the three traditional approaches to value accepted by and adhered to by the appraisal and assessing industry without appropriate or learned foundation for these variances in direct contrast to accepted appraisal methodology.

Specifically, diminished weight was accorded Ryan's cost and income approaches to value. In his cost approach, Ryan appropriately developed a market value for the subject's land. Thereafter, he commingles the subject's business value and real estate value. He provided a detailed description of the subject's improvement, according it an effective age of 30 years with a remaining economic life of 15 years. Initially, he indicated that the subject's highest and best use as vacant was a senior care facility and as improved as its present use. Nevertheless, Ryan subsequently opines that the subject's highest and best use was for demolition due to the fact that the subject's business has allegedly operated at a loss for several years. This example of commingling business and real estate value is pervasive throughout both of Ryan's appraisals. The un rebutted testimony of both Mr. Ryan and Ms. Singer was that there was little or no deviation in resident room square footage should the subject be used as a senior care facility. Moreover, the appellant failed to produce any documentation from the IDPH either explaining licensing procedures and/or explaining an alleged denial of alternative licensing for the subject's facility. In addition, Ms. Singer testified that there was no resident room size disparity between senior care and pediatric care or that there was any permanently affixed personal property that would inhibit an alternate use of the subject's resident rooms. Moreover, Ryan's rationale in Appellant's Exhibit #1 for not undertaking the income and sales comparison approaches to value is not reasonable. He once again expounds on how the subject's business is allegedly operating at a loss because Public Aid does not cover the subject's operating costs; therefore, the income approach is not applicable. In addition, he opined that the sales comparison approach is inapplicable because the subject is a "unique institution", clearly applies to the business value because Ryan's detailed description of the subject's improvement sheds no light into any unique, physical features.

Nevertheless, Ryan's companion appraisal, Appellant's Exhibit #2, addresses the income approach to value. The initial step in this approach is to utilize market data to develop a potential gross income. In contrast, Ryan merely uses the subject's actual income of \$212.13 per day from Public Aid and then increases this amount to \$215.00 per day without further explanation including the absence of copies of financial statements substantiating these amounts. In estimating expenses, Ryan testified that he used the subject's actual expenses without personally verifying any of the data; furthermore, his testimony under cross examination is that his office prepared the statements included

in his appraisal. Therefore, if Ryan and/or his office prepared the submitted operating statements, PTAB questions why there is an absence of explanation for these expenses; including, why there are glaring omissions relating to: management fees, general and administrative fees, as well as the absence of doctor's fees and pharmacy fees. As to the issue of management fees of \$300,000 per year, Ms. Singer's un rebutted testimony was that she was unaware of any management company for the subject. Upon cross-examination regarding these omissions, Ryan's flippant testimony was that the fees were probably somewhere within the operating statements, this after he admitted that he did not verify any of the actual expense data. Also an unexplained probative point is that various line items on the operating statements vary per year, but the management fees of \$300,000 remain constant throughout the three-year period. Thereby, the PTAB finds that due to the contradictory or unexplained statements, these operating statements and the reliance thereon is tainted. In the income approach, despite Ryan's protestations that there is no comparability between a pediatric care facility and a senior care facility, Ryan contradicts this position and chooses to employ market capitalization rates for nursing homes in developing an overall capitalization rate for the subject. In addition, Ryan developed a potential gross income based upon the subject's unverified, actual income; absent any market data. Therefore, the PTAB finds that Ryan's cost and income approaches to value were not persuasive.

As to the parties' sales data, the PTAB finds that the board of review and the intervenor submitted raw sales data on sale comparables. In addition, Ryan's companion appraisal also submitted verified data on sales comparables. However, Ryan's sales comparison approach commingled various appraisal methodologies into a hybrid approach to value that the PTAB finds inappropriate and unconvincing. After making adjustments to his suggested sale properties, Ryan made an inappropriate adjustment to the subject property in the guise of an occupancy deduction. However, a vacancy deduction based upon market data is generally applicable to a subject property in the income approach to value and not the sales comparison approach to value. Further, Ryan's appraisal reflects that he made a prior adjustment to the suggested sale comparables for occupancy.

As to Ryan's appraisals, the PTAB finds that his commingling of business value of a going concern and with real estate value as well as multiple contradictions on relevant points leaves his testimony not credible as to his adjustments. Therefore, the PTAB will review all the sales comparables submitted by the parties while considering the differences and accord any necessary adjustments to these properties.

The courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. Chrysler Corp. v. Illinois Property

Tax Appeal Board, 69 Ill.App.3d 207 (2<sup>nd</sup> Dist. 1979); Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989). Therefore, the PTAB will give primary weight to the sales comparables submitted by the parties.

In totality, the parties submitted nine suggested sales comparables. In Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9, the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach. Thus, the PTAB finds that the best evidence of value is the market data submitted by the parties under this approach to value.

Further, the PTAB finds that despite Ryan's assertions that the subject property is a "unique institution", the PTAB finds that the subject's improvement is not unique, but rather the going concern and pediatric care offered by this institution is accorded a unique license. Moreover, Ryan admitted under oath that this opinion was based upon conversations with the subject's owners and not based upon his research and/or verification of the taxpayer owner's verbal or written statements.

The PTAB reviewed the parties' nine submitted sale comparables, which are nursing home/convalescent hospital facilities sited in the City of Chicago or its surrounding suburban area. They sold from October, 1999 through September, 2003. The improvements range: in age from 4 to 53 years, in the number of beds from 66 to 328 beds, and in building size from 15,081 to 180,000 square feet. The sale properties ranged in sale price from \$20,000 to \$62,000 per bed, without adjustments.

After considering all the testimony and written evidence regarding these properties and considering adjustments for the differences in characteristics of the parties' sale comparables, the PTAB finds that the subject's assessment for tax year 2002 is supported by the sale properties in this record and that a reduction in the subject's assessment is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

*Ronald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank J. Huff*

Member

*Mario Morris*

Member

*Shawn R. Lerbis*

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: March 23, 2010

*Allen Castrovillari*

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.