AMENDED
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Belmont Village
DOCKET NO.: 05-01564.001-C-3 and 06-01805.001-C-3
PARCEL NO.: 05-04-305-020

The parties of record before the Property Tax Appeal Board are Belmont Village, the appellant, by attorney William J. Seitz, of Fisk Kart Katz and Regan, Ltd. of Chicago; the DuPage County Board of Review; and Wheaton-Warrenville CUSD # 200, intervenor, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***an increase*** in the assessments of the property as established by the **DuPage** County Board of Review are warranted. The correct assessed valuations of the property are:

2005

05-01564.001-C-3	**Land**	**Impr.**	**Total**
Assessment prior to exemption	$566,440	$5,094,560	$5,661,000
Assessment after exemption	$566,440	$4,320,560	$4,887,000

2006

06-01805.001-C-3	**Land**	**Impr.**	**Total**
Assessment prior to exemption	$595,950	$5,049,750	$5,645,700
Assessment after exemption	$595,950	$4,114,750	$4,710,700

Subject only to the State multiplier as applicable.

ANALYSIS

For purposes of this appeal and pursuant to Property Tax Appeal Board rule 1910.78, Docket No. 05-01564.001-C-3 was consolidated with Docket No. 06-01805.001-C-3 for purposes of oral hearing.

The subject property is improved with a three-story, masonry constructed sheltered-care senior living facility containing 140 units. The building contains a gross-building area of 103,000 square feet and a rentable living area of 58,191 square feet. The building was constructed in 2000. The improvements are located on a parcel containing 328,007 square feet or 7.53 acres. The property is located in Carol Stream, Milton Township, DuPage County.

The appellant, through counsel, appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. The appellant called Jeanne Hansen, Executive Director at Belmont Village, as its first witness. She has been at Belmont Village since September of 2001. Ms. Hansen is responsible for all the daily operations of the subject property. She testified that Belmont Village is a sheltered-care facility for senior residents. Belmont Village has apartments for its residents; however, they also provide care, services and transportation. Belmont Village is unique in that it has nurses on-site 24 hours a day.

Hansen testified that Belmont Village has a sheltered-care license through the State of Illinois Department of Public Health. She stated that approximately four year ago assisted living licensing became available and that a sheltered-care license is harder to maintain with more rigorous licensing pieces they have to maintain. Hansen explained that Belmont Village has to have handrails throughout the community; has a different fire safety protection system than assisted-living facilities; and has persons on a sliding scale insulin program in the community, whereas they would not otherwise be allowed in an assisted-living facility. Belmont Village also provides services to people with dementia or Alzheimer's. They have a 24-unit secured area for people with dementia that is supervised 24 hours a day.

Hansen testified that all of the residents at Belmont Village pay privately for the care. Less than 10% of the residents have some type of long-term care insurance and less than 2% have Veterans Administration benefits. Each resident typically enters into a one year lease. When a resident no longer can afford to stay at Belmont Village they must leave because public assistance is not accepted.

She testified that Belmont Village has approximately 100 full and part-time employees with various levels of training such as nursing, human resources, sales persons, a building engineer, a chef, cooks, culinary staff and an activity coordinator. She testified that Belmont Village provides three meals a day for the residents and transportation is provided seven days a week. These services are included in the rent.

Ms. Hansen explained that the residential units are of different sizes with a small kitchenette with a microwave, refrigerator, cabinetry and a sink. Each unit has its own bedroom area, a private bathroom with a shower and sink, and its own control of heat and air conditioning. No unit has a stove or bathtub.

The subject property also has common area on the first, second and third floors. These include areas where the residents can enjoy snacks, a little country store, a library, an exercise room, a center for learning, a beauty salon, and parlor areas where residents can sit and socialize. She testified the building is staffed 24 hours a day with nurses and caregivers.

Ms. Hansen explained that the rent charged to the residents includes the care that is associated with the activities of daily living such as bathing, dressing, grooming, ambulation services and food. The rent charged is not segregated by rent and services. She indicated that rent in 2005 for a studio apartment was approximately $4,000 per month and could run up to $8,000 per month for the larger apartments.

The appellant called John O'Dwyer as its next witness. Mr. O'Dwyer is employed as a commercial real estate appraiser for JSO Valuation Group. He has been appraising commercial real estate for at least 25 years; is designated with the Appraisal Institute and the Illinois Institute of Chartered Surveyors; is a full member of the Appraisal Institute and has completed its entire educational program. He testified that he is licensed by the State of Illinois as a certified real estate appraiser and has the MAI designation.

O'Dwyer testified that he supervised the appraisal report written by Vanessa Hall; who has subsequently left the state. He has appraised numerous types of properties including simple industrial properties, complex industrial properties, apartment buildings, retail buildings and buildings such as the subject. Without objection, he was accepted as an expert in real estate appraisal.

Ms. Hall prepared a complete self-contained appraisal of the subject property under O'Dwyer's supervision. The appraisal was marked as Appellant's Exhibit No. 1. O'Dwyer described the property as being a 140-unit sheltered-care living facility containing 103,000 gross square feet of building area with an actual rentable area of 58,191 square feet.

The building provides seniors with the ability to have an independent living life style with such services and amenities as three full meals per day, a kitchen, open meeting areas, open living room areas, a second smaller dining room, library, activity rooms and a hair salon.

O'Dwyer testified that the firm's assignment was to value the real estate for tax appeal purposes. He testified this property has a business component aspect such as licenses, management and staff which cannot be discounted. The assignment was to separate the real property from the overall value to reflect the market value of the real estate.

The witness testified he was familiar with the study entitled "The Case for Investing in Senior Housing and Long Term Care Properties" by National Investment Center of Price, Waterhouse, Coopers.[1] The study identified four categories of senior living. O'Dwyer testified that the case study depicts that 25% to 35% of the money paid by residents is for housing and 65% to 75% is for services.

In describing the subject property, O'Dwyer testified the subject improvements are located on a 7.53-acre site or approximately 328,000 square feet, of which 175,000 square feet are wetlands which account for approximately 54% of the property. The remaining 152,000 square feet is a self-contained site consisting of a parking hardscape, landscape and retention ponds. O'Dwyer testified that when the facility was first opened it had 158 units, all studio apartments. After a very slow start, some of the studio units were converted to one-bedroom units. O'Dwyer testified that the tenants pay rent, of which 25% to 40% is for the actual real estate with the balance being for the services that are provided.

In estimating the market value of the subject property, O'Dwyer testified that all three approaches to value were used. The scope of the appraisal was to value the real estate for tax appeal purposes. O'Dwyer testified that there is a real estate component and lots of other components in the subject from fixtures and fittings to licenses to management and staff. O'Dwyer further testified that there are two ways to separate both sides out. One method is to value the overall business and then extrapolate out the real estate component. The second method requires a lot of information that is simply not available which requires having to make estimates and guesses and pulling information from other places that may or may not be comparable. O'Dwyer testified that for independent-care and sheltered-care facility sales, an appraiser is not really sure what is included in the sale, what all the expenses are, what the management costs are, how much the license was or how much of the sale involved furniture, fixtures and equipment (FF&E). The information is simply not available, so the appraiser must make guesses. For each sale of an independent-living or sheltered-care facility, the appraiser must deduct the costs that are associated with the business, however, the appraiser does not have all of the information. Each sheltered-care facility such as the subject considers the information about their particular operation highly proprietary. O'Dwyer testified that he used Sections 1 and 2 of

[1] The study was relied upon by O'Dwyer in preparation of the appraisal prepared by JSO Valuation Group Limited and was subsequently allowed to be entered into the record.

the Uniform Standards of Professional Appraisal Practice (USPAP). These sections require a written appraisal in a very coherent and legible fashion. USPAP does not address extrapolation of the actual real estate portion, which is done in other publications. O'Dwyer next detailed the JSO appraisal report which utilized all three approaches to value. The first approach discussed was the cost approach to value.

The first step under the cost approach was to estimate the land value using four comparable land sales located in Carol Stream, Lombard, Winfield, and Bloomingdale. The comparables ranged in size from 208,310 to 261,360 square feet or from 4.78 to 6.00 acres. The comparables sold from February 2004 to April 2004 for prices ranging from $550,000 to $1,549,000 or from $2.64 to $6.62 per square foot of ground area. Adjustments were made to land sales 1, 2 and 4 for buyer expenditures associated with bringing utilities to the respective sites. The appraiser also made an adjustment to sale 4 for demolition costs. After making these adjustments, the appraiser estimated the comparables had adjusted per square foot sales prices ranging from $2.71 to $6.79. The appraiser estimated 152,507 square feet of the subject site had a market value of $6.75 per square foot while the 175,500 square feet of unbuildable wetlands area had a market value of $.50 per square foot. The estimated land value was calculated to be $1,120,000, rounded.

The appraiser estimated the replacement cost new of the subject improvements using the <u>Marshall Valuation Service Manual</u>. The subject property was classified as "Good Class C Multiple Residences - Elderly Assisted Living." The appraiser indicated that a component was also added for the sprinkler system and further added "soft costs" associated with developer's profit, legal and miscellaneous fees. The appraiser also added 15% for site improvement costs. Total replacement cost for the building was $11,429,827 and site improvements were estimated to be $439,234 resulting in a total cost new of $11,869,061. Depreciation was estimated to be $6,033,952 resulting in a depreciated improvement value of $5,835,110. Adding the land value resulted in an estimated value under the cost approach of $7,000,000, rounded. The appraiser was of the opinion that the subject suffered from 50% functional obsolescence associated with extensive common areas, wide hallways, handrails throughout, fire code specifications, limited kitchen area in each apartment, two bathrooms in some of the one-bedroom apartments and low demand for studio apartments.

In the sales comparison approach the appraiser used five sales of apartment properties located in Milton and Bloomingdale Townships. The comparables were located in Addison, Glendale Heights, Glen Ellyn, and Wheaton, Illinois. The comparables were composed of multiple two-story buildings constructed from 1966 to 1973 that had total building areas ranging from 43,880 to 167,750 square feet. These comparables contained from 60 to 220 units.

Comparable number one had 51 one-bedroom units, 129 two-bedroom units and 20 three-bedroom units. This comparable had an average unit size of 800 square feet and sold in December 2003 for a price of $8,450,000 or $42,250 per unit or $52.80 per square foot. Comparable number two had 55 one-bedroom units and 165 two-bedroom units. This comparable had an average unit size of 763 square feet and sold in August 2003 for a price of $13,450,000 or $61,136 per unit or $80.18 per square foot. Comparable number three had 4 one-bedroom units and 56 two-bedroom units. This comparable had an average unit size of 1,087 square feet and sold in March 2002 for a price of $4,000,000 or $66,667 per unit or $61.35 per square foot. Comparable number four had 88 one-bedroom units and 32 two-bedroom units. This comparable had an average unit size of 677 square feet and sold in September 2001 for a price of $6,000,000 or $50,000 per unit or $73.89 per square foot. Comparable number five had 52 one-bedroom units and 16 two-bedroom units. This comparable had an average unit size of 645 square feet and sold in July 2001 for a price of $3,349,000 or $49,250 per unit or $76.32 per square foot. The appraiser noted the subject property had an average unit size of 416 square feet while these properties had average unit sizes ranging from 645 to 1,087 square feet. After reviewing these comparables, the appraiser estimated the subject had an indicated value under the sales comparison approach of $50,000 per unit or $7,000,000.

The final approach to value developed was the income approach to value. To estimate the market rent, the appraiser performed an analysis of surrounding apartment buildings in Carol Stream, Glendale Heights, Lisle, Glen Ellyn, and Wheaton. The appraiser also used historical income and expense data from the subject property for 2001 through 2003. The appraiser estimated the market rent for each unit, for the dining room/kitchen as restaurant area and the beauty salon. The apartment complexes had rental rates ranging from $669 to $879 per month for one bedroom apartments, $729 to $1,129 per month for two bedroom apartments, and $1,085 per month for three bedroom apartments. The comparables with studio apartment had rentals ranging from $560 to $720 per month. Using this data the appraiser estimated that the subject's 120 studio apartments had market rents of $625, $650 and $700 per month. The appraiser estimated the subject's one-bedroom units had market rents of $750, $775 and $850 per month. Based on this information the appraiser estimated the subject apartments had a potential gross income of $1,119,300. The comparable rentals for the restaurant and beauty salon ranged from $21.60 to $42.86 per square foot. Using this data, the appraiser estimated the subject's restaurant had a market rent of $30 per square foot while the beauty salon had a market rent of $22 per square foot. The appraiser then deducted 5% for vacancy and collection loss to arrive at an effective gross income of $1,203,935. The appraiser estimated expenses to be $431,523 resulting in a stabilized net operating income of $772,412. The appraisal report depicts the band of investment technique was used to calculate the capitalization rate. The appraiser relied on data provided by Korpacz and the National Investment Center for Senior Housing to estimate the capitalization rate. Using the band of investment technique, the appraiser estimated a loan to value ratio of 70% with a rate of 6.87%. The appraiser estimated the 30% equity component would require a return of 20%. Adding these components resulted in a capitalization rate of 10.75%. The appraiser also added an effective tax rate of 2.10% to arrive at a loaded capitalization rate of 12.85%. Capitalizing the net income resulted in an estimated market value under the income approach of $6,000,000.

In reconciling the three approaches to value, the appraiser gave most emphasis to the income approach and estimated the subject property had a market value of $6,000,000 as of January 1, 2004. O'Dwyer testified that they (JSO) relied on the income approach as the main indicator of value for the subject because they were able to add more components into that method. They were able to introduce the restaurant and hair salon into the mix. The cost approach includes those components; however, the appraiser must consider different forms of deterioration, which are difficult to estimate.

Under cross-examination by the board of review, O'Dwyer testified that he inspected the subject at the time the appraisal report was prepared, however, he had never been inside of the subject until immediately prior to the hearing. O'Dwyer further testified that the estimated 2004 value of $6,000,000 would be very close to the subject's value in 2005; however, he was not sure if it would be the same for 2006. O'Dwyer further acknowledged that date of sale adjustments were used in estimating a value for the subject in 2004 and would have to be carried forward for 2005 and 2006. He admitted that Belmont Village could not be operated as a sheltered-care facility in the sale comparables used in the JSO appraisal report. Regarding the tax load calculations, O'Dwyer was not sure if the tax rate as used in the report would change because the subject received tax exemptions for a life-care facility.

The witness was next cross-examined by the intervenor. O'Dwyer testified that Vanessa Hall prepared the initial report and he reviewed it. He was not sure how many sheltered-care facilities are in Illinois. O'Dwyer acknowledged that the JSO appraisal report depicts the subject's highest and best use, as improved, is the existing use. However, in this instance he does not agree that the highest and best use is an essential factor in valuing a property and determining from where comparable data should be obtained. The witness was referred to <u>The Appraisal of Real Estate</u>, 12th Edition, marked as Intervenor's Exhibit 2. The treatise states in part:

> There are two reasons to analyze the highest and best use of the property as improved. The first is to help

> identify potentially comparable properties. Each improved property should have the same or a similar highest and best use as the improved subject property both as though vacant and as improved.

The Appraisal of Real Estate, 12th Edition.

O'Dwyer did not agree with that premise in the instant case. He testified that JSO did not have sufficient data needed to develop a complete and comprehensive value as the going concern. However, he agreed that if an appraiser had sufficient data and had expertise in valuing these kinds of properties, the appraiser could value the going concern and make a deduction for business value. O'Dwyer admitted that the JSO report does not include comparable sales support for the concluded $.50 per square foot value for surplus land. O'Dwyer acknowledged that the estimated cost approach value of $7,000,000 was less than half of the original cost to build the subject in the amount of $14,700,000 just four years prior to the valuation date.

Regarding the income approach, O'Dwyer admitted that all of the rental data was derived from apartment buildings; however, he was not sure how much it would cost to convert the rental comparables into a sheltered-care or assisted-living facilities. He stated that it was not likely that rental comparables 1 or 2 could be used as assisted-living or sheltered-care facilities. O'Dwyer acknowledged that the JSO report also uses income and expense data derived from apartment buildings.

The witness was next questioned regarding the sales comparison approach. When questioned regarding comparable sale number 1 in the JSO report, O'Dwyer was not aware that this sale was a Section 8 Housing and Urban Development (HUD) subsidized property. He acknowledged that comparable sale 2 was 30 years older than the subject. O'Dwyer admitted that the Belmont Village residents would not tend to occupy comparable sale 2. In addition, he was not aware that this comparable subsequently converted to condominiums. Even though the CoStar report indicates comparable sale 2 was converted to condominiums, it was not recorded in the JSO report.

O'Dwyer testified that the subject's value for 2005 and 2006 could reasonably be determined by taking the 2004 value and adding an inflation rate of 3% per year.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessments of the subject totaling $3,417,470 for 2005 and $3,554,070 for 2006 were disclosed. The subject's assessment reflects a 2005 market value of $10,262,673 or $73,305 per unit and a 2006 market value of $10,701,807 or $76,441 per unit using the 2005 and 2006 three-year median level of assessments for DuPage County of 33.30% and 33.21%, respectively. The board of review did not present a case in chief, but deferred to the intervenor.

The intervenor, through counsel, called Eric Dost as its witness. Mr. Dost is the president of Dost Valuation Group. Dost has been a commercial real estate appraiser for 22 years. He was previously employed at CBIZ Valuation Counselors as a director and national practice leader to the real estate group. He appraised senior housing properties as a part of the group, which was a large part of their work. He is a member of the Appraisal Institute, earning his MAI designation in 1993. He is a state certified general appraiser in five states. He has prepared approximately 2,500 appraisals of commercial properties and 500 appraisals of senior housing properties. Approximately 200 of the appraisals involving senior housing properties were assisted-living care facilities. The witness, without objection, was tendered as an expert in the appraisal of senior housing and health care properties.

Dost prepared a complete summary appraisal of the subject property. The appraisal was previously marked as Intervenor's Exhibit No. 1. Dost testified that his appraisal is consistent with the standards of USPAP. He personally inspected the subject on November 14, 2007 and again immediately prior to the hearing. He stated that he used the USPAP definition of market value which is synonymous with the Property Tax Code definition of fair cash value. Dost described the property as being a 140-unit assisted-living facility that is licensed as a sheltered-care facility with 182 licensed beds that was built in 2000, is three stories and in very good condition. Dost testified that sheltered-care facilities and assisted-living facilities are pretty much the same thing, they have similar construction features and basically compete for the same residents.

Dost testified that the subject's highest and best use as vacant was for a multi-family development and the highest and best use as improved was the current use. He developed all three approaches to value in estimating the subject's value as of January 1, 2005.

The first approach discussed was the cost approach to value. The first step under the cost approach was to estimate the land value using four comparable land sales located in Carol Stream, Addison, Glen Ellyn and Lombard, Illinois. The comparables ranged in size from 104,408 to 296,400 square feet or from 2.40 to 6.80 acres. The comparables sold from February 2003 to May 2004 for prices ranging from $400,000 to $1,549,000 or from $2.50 to $6.62 per square foot of ground area. Qualitative adjustments were made to the land sales for size, zoning, utilities, location and shape/configuration. After making these adjustments, the appraiser estimated each comparable was inferior to the subject. Primary consideration was given to comparable sale 1 which was a current sale and closest in proximity to the subject. This property sold in April 2004 for $6.62 per square foot. Dost estimated 152,507 square feet of the subject site had a market value of $6.75 per square foot while the 175,500 square feet of excess land area had a market value of $2.00 per square foot. The excess land value estimate was derived from a 1997 purchase of 6.66-acres of open space by the Forest Preserve District of DuPage County in nearby Glen Ellyn for $2.67 per square foot. The subject's total estimated land value was calculated to be $1,380,000, rounded.

The appraiser estimated the replacement cost new of the subject improvements as an assisted-living facility using the Marshall Valuation Service. The subject property was classified as "Excellent Class C." Initial cost of construction for the subject property, excluding land and FF&E was depicted as $12,720,000. In addition, a component for the sprinkler system, entrepreneurial profit of 15% and soft costs were added. The appraisal report depicts the subject improvement had an effective age of 5 years with a total life of 55 years, resulting in incurable physical deterioration of 9.09%. Site improvements were estimated to have an effective age of 5 years with a life expectancy of 20 years, resulting in incurable deterioration of 25%. FF&E, based on actual costs of equipment at numerous proposed facilities was estimated to be $7,500 per unit with a depreciated value of $3,750 per unit or $525,000. FF&E was excluded in the estimate of value by the cost approach. Total replacement cost for the building was $16,040,617 and site improvements were estimated to be $324,393 resulting in a total cost new of $16,365,010. Depreciation was estimated to be $1,539,336 resulting in a depreciated improvement value of $14,825,674. Adding the land value of $1,380,000 resulted in an estimated value under the cost approach of $16,200,000, rounded.

In the sales comparison approach the appraiser used four sales of assisted-living and sheltered-care facilities located in Bloomington, Vernon Hills, Westmont and Northbrook, Illinois. The comparables were composed of multi-unit buildings constructed from 1995 to 2000 that had total building areas ranging from 50,144 to 277,143 square feet.[2] These comparables contained from 65 to 280 units. Comparable number one had 65 units, a unit size of 771 square feet and sold in August 2004 for a price of $7,137,100 or $109,802 per unit or $142.33 per square foot. Comparable number two had 280 units, a unit size of 990 square feet and sold in February 2005 for a price of $50,000,000 or $178,571 per unit or $180.41 per square foot. Comparable number three had 116 units. Gross building area and unit size were not disclosed. This comparable sold in May 2004 for a price of $14,500,000 or $125,000 per unit. Comparable number four had 221 units, a unit size of 1,241 square feet and sold in June 2004 for a price of $38,664,000 or $174,950 per unit or $141 per square

[2] The gross building area for improved sale number three was not disclosed.

foot. The comparables had occupancy rates ranging from 86.0% to 95.0%. The appraiser noted the subject property had a gross building area of 103,000 square feet, 140 units, a unit size of 736 square feet and an occupancy rate of 82.0%.

During direct-examination, Dost testified that the sale price for comparable sale one was for realty and included approximately $150,000 in FF&E with no transfer of business value. Comparable sale two for $50,000,000 was for the going concern with an allocated 3.3% for business value. Dost testified that he was able to verify the sales data and materials for all four comparable sales through public records and knowledgeable participants involved in each sale. After reviewing these comparables, the appraiser estimated the subject had an indicated value under the sales comparison approach of $140,000 per unit or $19,600,000. Dost explained that this value included the subject's going concern and FF&E which must be deducted to arrive at an estimated value of the real estate only.

In order to calculate the subject's business value, Dost estimated that 15% the subject's net operating income, as developed in the income approach, of $2,191,557 or $328,733 represented the subject's proprietary earnings based on the method in the <u>Health Care Enterprise Valuation</u> book and HUD's guidelines. Dost testified that he next applied a 20% capitalization rate to this amount because the excess earnings associated with the business are the risky portion of the cash flow and are intangible. If the business went away, there would be nothing left. If the assisted living closed, the building would still be there. There is nothing tangible with the business. Dost testified that 15% was reasonable as an estimate of proprietary earnings. Applying a 20% capitalization rate to the estimated proprietary earnings of $328,733 indicated a value of the business of $1,643,667 or $1,640,000, rounded.

In order to deduct going concern and FF&E, the subject was estimated to have an effective gross income of $5,539,428 as developed in the income capitalization approach. Dividing the going concern value of $19,600,000 by the effective gross income resulted in an estimated gross income multiplier of 3.54. This was verified and considered reasonable when compared with the known effective gross income multiplier of one of the four sale comparables which depicted a gross income multiplier of 3.50. A business value, as developed in the income capitalization approach, was estimated to be $1,640,000 and the depreciated value of FF&E of $525,000, as developed in the cost approach to value, were deducted to arrive at an indicated value of the real estate of $17,400,000, rounded.

The final approach to value developed was the income approach. The appraiser used the subject's historical financial statements as summarized in the JSO report, all ordered Medicaid cost reports from the State of Illinois from 2003 to 2005. Dost also surveyed comparable rentals and examined expense comparables of similar properties. Rent comparable one is a continuing-care retirement community with an assisted-living section in it. Dost testified that some facilities had multiple levels of care, so he only included the assisted-living rate. Each rental comparable had a mix of studio and one-bedroom units, like the subject. The rental comparables were located in Carol Stream, Glen Ellyn and Wheaton, Illinois. These comparables had either assisted-living units or dementia units with total units ranging from 60 to 400; assisted-living units ranging from 0 to 99 and dementia units ranging from 0 to 60. The assisted-living rates ranged from $3,011 to $4,867 per month with an average of $4,033 for studio units and from $3,755 to $4,961 with an average of $4,368 for one-bedroom units. Dementia care rates were $4,319 per resident day for studio units and from $5,080 to $5,200 with an average of $5,140 per resident day for one-bedroom units. The subject, as of November 2005, was depicted as having monthly rates of $2,575 for a shared studio, from $3,600 to $4,800 for a private studio, from $5,700 to $6,000 for a one-bedroom unit, and from $5,575 to $5,825 for a studio unit with dementia care. Dost testified that the subject was pretty much right on with his stabilized market rent. The subject's projected gross potential rental income was estimated to be $6,734,400. Other income for such items as employee meals and barber/beauty salon was estimated to be $21,000. The rental comparables had occupancy rates ranging from 90% to 100%, indicating a strong demand. The subject is depicted as having an occupancy rate of 75% in 2003, which increased to 82% in 2004 and 2005. Based on the subject's history, Dost concluded the subject had an 82% occupancy rate. Dost deducted total operating expenses of $3,347,871 for management expenses of 5%, general administrative expenses, dietary, housekeeping, laundry, social services, utilities, insurance and replacement reserves. Dost testified that the estimated total expenses, which excluded taxes, was highly similar to the subject's actual expenses of $3,264,162. Net operating income was estimated to be $2,191,557, which Dost stated was really close to the actual 2005 operating income of $2,150,070.

The appraisal report depicts three methods were utilized to develop the overall capitalization rate. Dost used the band of investment method, two separate investor surveys and a comparable sale to calculate the capitalization rate. The appraiser relied on data provided by <u>Korpacz Real Estate Investor Survey</u>, First Quarter 2005 and the 2005 <u>Senior Housing Investment Survey</u> to estimate the capitalization rate. Using the band of investment technique, the appraiser estimated a loan to value ratio of 75% with a rate of 5.59%. Dost testified that comparable sale four had a capitalization rate of 8.5%. The capitalization rates from the Band of Investment Technique, the <u>National Investment Center Quarterly Survey</u>, the <u>Senior Housing Investment Survey</u> and a market derived capitalization rate from comparable sale number four ranged from 8.5% to 10.8% with an average being depicted as 9.6%. Dost estimated a capitalization rate of 9.5% was considered reasonable for the subject. Dost added an effective tax rate of 5.87730% to arrive at a loaded capitalization rate of 11.459%. Capitalizing the net income resulted in an estimated market value under the income approach of $19,100,000, rounded, which depicted the subject's going concern value and included FF&E.

Utilizing a method examined in The Analysis and Valuation of Health Care Enterprises and the HUD map guide, Dost next subtracted out a business value of $1,640,000, derived from the income approach and a depreciated value of FF&E of $525,000 to estimate a value of the subject's real estate only by the income approach of $16,900,000 as of January 1, 2005.

In reconciling the three approaches to value, Dost gave most emphasis to the income approach, with some emphasis on the sales comparison approach and estimated the subject property had a market value of $17,000,000 as of January 1, 2005. Dost opined that the subject's market value on January 1, 2006 would not be less than $17,000,000.

Under cross-examination by appellant's counsel, Dost acknowledged that he only examined the lobby of the subject and did not request an interior inspection. Dost admitted that he had no sales of open space land that sold for more than $2 per square foot in his appraisal report. Dost testified that his estimated amount of $7,500 per unit for furniture and equipment included items in the kitchen, artwork, couches in the lobby areas, dining room tables and so forth. Dost testified that this amount was based on actual cost of equipment at numerous proposed facilities he has appraised, however, the support data is not included in the appraisal report. Dost acknowledged that he did not disclose the exact location of the expense comparables, the occupancy rates or detailed services from which the expenses were derived in his appraisal report. Dost explained that because of confidentiality concerns, he could not disclose that data.

During the hearing, DuPage County Board of Review member, Carl Peterson, called Leslie Carter as a witness. Ms. Carter works for the DuPage County Supervisor of Assessments regarding homestead exemptions. She applies the exemption granted by the board of review for Belmont Village. She then multiplies the number of units times the senior exemptions and residential exemptions, which is then subtracted from the board of review's final assessment for the subject. In 2005 the subject's exemption was valued at $774,000 assessed for 98 units and in 2006 the subject's exemption was valued at $935,000 assessed for 110 units. Mr. Peterson explained that these exemption amounts should be deducted from the Property Tax Appeal Board's final finding.

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 these appeals. The Board further finds the evidence in the record supports an increase in the subject's assessment.

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the intervenor met this burden of proof and an increase in the subject's assessment is warranted.

In this appeal, the Property Tax Appeal Board finds the best evidence of value is the appraisal prepared by Eric Dost and presented by the intervenor estimating the subject property had a market value of $17,000,000 as of January 1, 2005 and January 1, 2006.

Testimony provided by Jeanne Hansen, manager of the subject property, disclosed the subject property provides assisted-living and medical services to older residents. She further explained that the rent charged to the tenants included the care that is associated with the activities of daily living including food, bathing, dressing, grooming and ambulation services. In describing the subject property, she further testified there are significant sections of common area in the building, including a dining room, kitchen, library, barber/hair salon and laundry area.

The Board finds the appraisal submitted by the intervenor considered the unique factors associated with the subject property in arriving at the opinion of market value. The intervenor's appraiser provided a detailed description of the subject property. The appraiser also demonstrated through testimony his understanding of the uses of the subject property. In developing his opinion of value, he also considered the fact the subject property had a business component due to the extensive care services provided that had to be separated from the value of the underlying real estate. The appraiser also pointed out the fact that when you look at the actual construction costs, it is problematic to assume 50% obsolescence just four years after it is built. Dost testified the value does not instantly transfer from the real estate to a business value in that short amount of time.

The intervenor's appraiser developed the three traditional approaches to value in estimating the market value of the subject property. The report contains a detailed explanation of the appraisal process, a description of the underlying data supporting the analysis, and detailed mathematical computations for each approach to value that leads to a logical conclusion of value.

The intervenor's appraiser estimated the subject had an indicated value of $16,200,000 under the cost approach to value. The value conclusion contained an estimated value of the land of $1,380,000. By contrast, the appellant's witness estimated the subject had an estimated land value of $1,120,000. However, the appellant's witness admitted there was no land comparable sales support for the $.50 per square foot applied to surplus land. The record disclosed the subject was built in 2000 for approximately $14,700,000. However, the Board also finds it problematic that just four years later the appellant's appraiser found the subject had a depreciated cost new of $7,000,000 - just less than one-half of its original construction cost. This is assuming almost 50% obsolescence immediately after construction. As the intervenor's witness pointed out, the Board finds it questionable that a majority of the total cost of the real estate is suddenly transferred into a business value in just four years. The Board finds the intervenor's appraiser presented credible testimony, based in part on actual costs of numerous proposed facilities similar to the subject he had previously appraised, and a detailed analysis to support his conclusion of value under the cost approach for the subject of $16,200,000.

In the sales comparison approach, the appellant's appraiser made use of five sales of apartment buildings located in Milton and Bloomingdale Townships in DuPage County. These comparables were not particularly similar to the subject in that they were not used as sheltered-care facilities as is the subject and were structurally dissimilar to the subject. These comparables sold for unit prices ranging from $42,250 to $66,667 per unit. The appraiser estimated the subject had an estimated value of $50,000 per unit or $7,000,000 under the sales comparison approach. The appellant's appraisal had a detailed description of the comparables and a narrative analysis of the adjustment process, however, the Board finds it problematic that the sales comparables were of apartment complexes while the subject is used as an assisted-living or sheltered-care facility. Further, the witness was not aware, and it was not refuted, that one of the sale comparables used by the appellant's witness was a Section 8 HUD subsidized property, unlike the subject. Further highlighting the differences in the comparables used by the appellant's witness and the subject, the appellant's witness admitted that residents of Belmont Village would not tend to occupy the apartment comparables used by the appellant's appraiser.

In contrast, the intervenor's witness used sale comparables consisting of assisted-living and sheltered-care facilities which sold from May 2004 to February 2005 for prices ranging from $7,137,100 to $50,000,000 or from $109,802 to $178,571 per unit. The intervenor's witness testified that he was able to verify the sales data and materials for all four comparable sales through public records and knowledgeable participants involved in each sale. In contrast, the appellant's witness was not sure how many sheltered-care facilities were located in Illinois. Further O'Dwyer, the appellant's appraiser, testified that the subject's highest and best use, as improved, is its existing use, however, he did not agree with a paragraph taken from a treatise relied upon by experts in the field of real estate appraisal, The Appraisal of Real Estate, 12th Edition. This treatise states in relevant part that each improved property should have the same or similar use as the subject when identifying comparable properties. For these reasons, including the credibility of the witness, verification of the data, comprehensive analysis, and similarities of the comparables to the subject, the Board gives more weight to the conclusion of value contained in the intervenor's appraiser's sales comparison approach.

With respect to the income approach to value, the Board again finds the intervenor's appraiser's analysis is better supported with market derived data from properties with the same highest and best use as the subject. In contrast, the appellant's appraiser used market rents derived from apartment complexes, which the Board has previously discussed as being dissimilar to the subject. The appellant's appraiser was unable to estimate what it would cost to convert the rent comparables to sheltered-care or assisted-living facilities. The Board finds the intervenor's appraiser used the subject's historical financial statements and information that was reported to the State of Illinois that was more relevant to the assessment date in question. Further, the intervenor's appraiser used market rents and expenses taken from comparables of assisted-living or sheltered-care facilities similar to the subject. The testimony depicted that the intervenor's appraiser estimated a stabilized market rent very similar to the subject's actual rents. In addition, the subject's estimated expenses of $3,347,871 as depicted by the intervenor's appraiser was very close to the subject's actual expenses of $3,264,162. Moreover, the intervenor's appraiser estimated the subject's net operating income at $2,191,557, which is very close to the subject's actual net operating income in 2005 of $2,150,070.

The Board finds the intervenor's appraiser's estimates of market income, expenses and net operating income lend credibility to the intervenor's income analysis when compared to the subject's actual income and expenses. Furthermore, the intervenor's appraiser provided sound and credible data in support of the estimated capitalization rate used to capitalize the net income into an estimate of value. For these reasons, the Board finds the estimated value under the income approach developed by the intervenor's appraiser is better supported than that presented by the appellant's witness.

The appellant's appraisal of $6,000,000 was for a valuation date of January 1, 2004. When questioned by the board of review whether that same estimate of value would be valid for 2006 the appellant's witness stated "I don't know." In fact, for 2005 the witness testified that the 2004 valuation would probably be close, but 2006 was getting further down the line. Upon further examination, the appellant's appraiser stated that in order to determine the subject's market value in 2005 and 2006 one would have to increase the 2004 estimated value by a factor of inflation. However, he admitted adjustments for time of sale and occupancy rates would also have to be recalculated. The Board finds the intervenor's appraiser was better prepared to competently answer questions and provided more credible testimony and evidence than the appellant's witness who signed off on an appraisal report primarily prepared by another person. The data and materials used by the intervenor's appraiser were more relevant to the subject's assessment date in question and more similar to the subject's use as a sheltered-care facility. The manifest weight of the testimony and evidence in this record supports an increase in the subject's assessment.

In conclusion, the Property Tax Appeal Board finds the subject property had a market value of $17,000,000 as of January 1, 2005 and January 1, 2006. Since market value has been established the 2005 and 2006 three-year median level of assessments for DuPage County of 33.30% and 33.21%, respectively, shall apply, resulting in a total assessment for 2005 of $5,661,000 and a total assessment for 2006 of $5,645,700. In accordance with the testimony of Leslie Carter and DuPage County Board of Review Member Carl Peterson, the Board finds deductions of $774,000 in 2005 and $935,000 in 2006 from these assessment findings are to be made to account for the exemption granted by the board of review because the subject is a life care facility.

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.

Chairman

Member | Member

Member | 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: February 23, 2010

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.