FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Fifth Season Residential, LLC
DOCKET NO.: 08-05975.001-C-2
PARCEL NO.: 07-13-426-005

The parties of record before the Property Tax Appeal Board are Fifth Season Residential, LLC, the appellant, by attorney William P. Novick of the Law Office of William P. Novick, in Marion, and the Franklin County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***a reduction*** in the assessment of the property as established by the **Franklin** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$50,775
IMPR.:	$498,225
TOTAL:	$549,000

Subject only to the State multiplier as applicable.

ANALYSIS

The subject site of 2.06-acres or 89,734 square feet of land area is improved with a 4-year-old, one-story wood-framed assisted-living facility containing 22,995 square feet of building area. The subject is licensed for 28 assisted-living units. The property includes an asphalt paved parking lot and is located in Benton, Browning Township, Franklin County.

The appellant through legal counsel contends overvaluation as the basis of the appeal. In support of this argument, the appellant submitted an appraisal of the subject property prepared by real estate appraiser Jean-Pierre LoMonaco of Valuation & Information Group of Culver City, California. The more than 100-page appraisal report includes a "Draft" watermark throughout and lacks the signature of the appraiser, but includes an estimated fee simple market value for the subject property of $1,650,000 as of January 22, 2009.

The primary purpose of the valuation was to estimate the as-is fee simple market value "of the total assets of the business in accordance with Healthcare Appraisal Guidelines for HUD/FHA

Section 232 Lean Pilot Program." (Report, cover letter) The document further stated the appraisal would be used in connection with HUD financing.[1] Furthermore, the value reported in the document was said to include the land, improvements, equipment and intangible assets, although it did not include working capital. The appraiser developed the three traditional approaches to value in estimating the market value of the subject property.

Under the cost approach, the appraiser analyzed three land sales and one listing to arrive at an estimated land value for the subject of $130,000, rounded, or $1.50 per square foot of land area (Exhibit D of the addenda). Using the Calculator Cost Method with cost factors from the Marshall Valuation Service, the appraiser determined a replacement cost new for the subject building and related improvements of $2,112,354. Further the appraiser added indirect costs for financing points, taxes during construction, marketing, revenue loss and entrepreneurial profit resulting in a total replacement cost new of the building and improvements of $2,781,714. Physical depreciation of 7.69% or $200,809 was calculated for the building using the age/life method and 25% or $42,799 was calculated for the site improvements. After these deductions, the depreciated value of improvements was $2,538,107. Thus, once the land value was added along with a value of equipment of $140,000, under the cost approach, the appraiser estimated a market value of $2,810,000, rounded, for the subject.

Developing the sales comparison approach, the appraiser estimated the subject had a market value of $1,600,000. The appraiser used six sales of assisted-living/independent living facilities, two of which were portfolio sales of two and four facilities, respectively. The sales were located in various Illinois cities[2] and in Indiana, Ohio and Iowa (Exhibit E in the addenda). The facilities were built between 1987 and 2006. The sales were summarized as consisting of from 77 to 288 units. These properties sold between November 2006 and September 2008 for prices ranging from $6,500,000 to $31,500,000 or from $73,034 to $271,552 per unit, including land.

The appraiser considered what adjustments were necessary for differences between the comparable sales and the subject. On page 77, the appraiser outlined adjustments for location, age/condition, occupancy, operation and square foot per unit which resulted in an adjusted price per unit ranging from $55,082 to $76,034. The appraiser opined a value for the subject based on the sales comparison approach of $1,620,000, rounded, using a per unit value of $58,000.

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[1] Page 1 of the report indicates the intended users include "representatives of Lancaster Pollard Mortgage Company."

[2] See map in Exhibit E of the addenda with details on sales 1, 4 and 6 which were in the cities of Westmont (#1 – metro Chicago), portfolio sale #4 had facilities in Watseka, Ottawa, Manteno and Flora (north-central & south-central Illinois), and sale #6 was of two facilities in "southern Illinois" which were 12 miles apart in Troy and Shiloh (metro St. Louis).

Next, the appraiser examined the adjusted effective gross income multipliers (EGIM) of the comparable sales and compared the expense ratio to the EGIM. The appraiser opined that the subject's indicated value based on the EGIM method was $1,600,000 as summarized on page 78 of the report.

Then, the appraiser found the two value conclusions in the sales comparison approach were supportive of one another and concluded a value under this approach of $1,600,000.

Using the income approach, the appraiser estimated the subject had a market value of $1,650,000. The first step was to develop the subject's potential gross income by estimating the stabilized occupancy. To estimate the subject's income and expenses, the appraiser relied upon financial data from the appellant's management as well as the appraiser's experience in properties of this nature. The appraiser examined historical data for years ending December 31, 2006, 2007 and 2008 (see page 81). In addition to these figures, the appraiser analyzed the revenue and expense data on a per-unit-month basis and as a percentage of revenue (page 82). Furthermore, the appraiser examined operating data from four comparable facilities (page 83).

Next, the appraiser analyzed occupancy data and arrived at a stabilized occupancy rate for the subject of 92%. Then, revenue was analyzed by the appraiser which fell into two categories: rent and other. Rent includes the monthly charge for a room and three meals daily, utilities and activities along with all assisted living services with no additional charges for care levels. Historically, the subject's per-unit-month rental revenue was $2,299 in 2007 and $2,306 in 2008 (2006 was a partial lease-up year). (Page 86)

The facility charges $850 for a second occupant and typically it is reported that two to three second occupants reside at the facility. The appraiser also found that competitors charge from $675 to $850 for a second occupant. The appraiser projected two second occupants at $850. (Page 89) Revenue also includes furniture rental with a projection of six occupants charged $75 per month. The facility generates other revenue from vending services which was sufficiently insignificant to be included in the income approach analysis. From this historical income data, the appraiser determined a stabilized revenue of $2,305 per month, with a stabilized occupancy rate of 92%, the appraiser projected effective gross income at $712,632 (Report p. 93). Next, expenses such as general/administrative, building and grounds, dietary, payroll, personal care, marketing, insurance, property taxes, management fee and reserves were considered for projected total operating expenses of $564,414. Thus, the appraiser concluded a stabilized net operating income of $148,218 (Report, p. 93).

The next step under the income approach analysis was arriving at an appropriate capitalization rate. The appraiser reported that overall capitalization rates range from 6% to 11% based on sales gathered from the United States (page 95). By eliminating the two high and low sales from his data set, the range was reduced to 6.6% to 9.9%. The appraiser also considered published survey data regarding long-term care facilities with capitalization rates decreasing in 2007 to 8.3% along with additional published data. Additionally, the appraiser used the band of investment technique arriving at a capitalization rate of 8.7%. The appraiser, having examined the three conclusions drawn from comparable sales, published surveys and the band of investment technique, concluded an overall rate for the subject property of 9.0%. Capitalizing the subject's net income of $148,218 by the rate of 9%, results in a market value by the income approach of $1,650,000, rounded.[3]

In reconciling the value approaches, the appraiser gave most weight to the income approach in arriving at the final estimate of market value (pages 99-101).

Based on this evidence, the appellant requested the subject's assessment be reduced to reflect a market value of approximately $1,593,900.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $766,500 was disclosed. The subject's assessment reflects a market value of $2,303,877 or $82,281 per unit, including land, when applying the 2008 three-year median level of assessments for Franklin County of 33.27%. (86 Ill.Admin.Code §1910.50(c)(1)).

In support of the subject's estimated market value, the board of review submitted a letter from the Supervisor of Assessments and one comparable sale. In the letter, the appraisal was criticized for lacking a signature on the certification page, having the "Draft" watermark and thus "not appear[ing] to be a finished product." Furthermore, the purpose of the appraisal was for HUD financing and has a valuation date of January 22, 2009, a year after the assessment date at issue of January 1, 2008. Additionally, the letter stated, "the Board [of review] has found factual errors as far as the comparable land sales are concerned and feel that the other sales comparisons are not from areas representative of Southern Illinois real estate market with downward adjustments made for those differences that have not been substantiated." No documentation of purported land sale errors were submitted.

In support of the subject's estimated market value, the board of review presented data concerning a July 2009 sale of a similar facility located in Massac County and about 60 miles from the subject property. The comparable was 5-years-old and contains 34,973 square feet of building area with 47 units. The property reportedly sold for $4,225,000 or $89,894 per unit. The attached

[3] The appraiser also reported that adding the present value of the subject's tax abatement results in an as-is value of $1,890,000.

Illinois Real Estate Transfer Declaration (PTAX-203) indicates that the property was not advertised for sale and the sale occurred from seller Twin Oak Estates Rentals, Inc. to Twin Oaks Metropolis, LLC with no amount of personal property included in the purchase price. According to this same document, in March 2009 prior to the instant sale the property underwent a major change with an "addition."

Based on the foregoing criticisms and evidence, the board of review requested confirmation of the subject's estimated market value as reflected by its assessment.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports a reduction in the subject's assessment.

The appellant contends overvaluation as the basis of the appeal. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to so to do. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). 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). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)).

The appellant argued that the subject's assessment was not reflective of market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000); National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill. App. 3d 1038 (3rd Dist. 2002). The Board finds this burden of proof has been met and a reduction in the subject's assessment is warranted.

The Board finds the appellant submitted an appraisal of the subject property with a final value conclusion of $1,650,000, while the board of review submitted no appraisal, criticized the appraisal with generalized statements, but no specific factual errors and presented one comparable sale with no adjustments and no indication that the sale was an arm's length transaction since it had not been advertised on the open market. The Property Tax Appeal Board finds that, despite the criticisms, the appraisal submitted by the appellant estimating the subject's market value of $1,650,000 or $58,929 per unit including land is still the best evidence of the subject's market value in the record.

Based upon the market value as stated above, the Property Tax Appeal Board finds that a reduction is warranted. Since market value has been established, the three-year median level of assessments for Franklin County for 2008 of 33.27% shall be applied.

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: August 28, 2012

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.