FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Caring First Inc.
DOCKET NO.: 09-02412.001-C-3
PARCEL NO.: 06-06-22-252-008

The parties of record before the Property Tax Appeal Board are Caring First Inc., the appellant, by attorney Garrett C. Reuter of Greensfelder, Hemker & Gale, P.C., Belleville, Illinois; and the Clinton 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 **Clinton** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$40,000
IMPR.:	$597,065
TOTAL:	$637,065

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property is improved with a one-story steel frame and masonry constructed skilled nursing facility containing a gross building area of 31,234 square feet on a slab foundation. The facility has 4 private rooms and 54 semi-private rooms and licensed and configured to accommodate 112 beds. The building was constructed in stages from 1968 to 1975. The property also has 63 paved parking spaces. The subject site has 4.011 acres or 174,735 square feet resulting in a land to building ratio of 5.59:1. The property is located in Breese, Breese Township, Clinton County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal prepared by Keith McFarland of The Lauer Appraisal Company. The appraisal was marked as Appellant's Exhibit #1. McFarland estimated the value of the real property was $1,100,000 as of January 1, 2009. McFarland was called as the appellant's witness.

McFarland is the vice-president of Lauer Appraisal Company and has been appraising commercial property since 1986. He has previously served as president of the St. Louis chapter for the American Society of Appraisers and has the designation of ASA, which is a senior member of the American Society of Appraisers. McFarland is a Certified General Real Estate Appraiser with the State of Illinois and a State Certified General Real Estate Appraiser with the State of Missouri.

The witness testified he inspected the subject property on December 31, 2009. The purpose of the appraisal was to estimate the retrospective market value of the fee simple estate in the subject real property as of January 1, 2009, excluding the going concern value and furniture, fixture and equipment (FF&E) necessary in the operation of the nursing facility. (Appellant's Exhibit #1, page 12.) The witness testified the subject is used as a skilled care nursing facility. In estimating the market value of the subject property the appraiser developed the three traditional approaches to value; the cost approach, the income approach and the sales comparison approach.

The first approach developed by the appraiser was the cost approach to value. The initial step under the cost approach was to estimate the value of the land using three land sales located in Carlyle, Highland and Nashville, Illinois. The land comparables ranged in size from 2 to 3.176 acres or from 87,120 to 138,333 square feet of land area. The sales occurred from August 2007 to June 2008 for prices ranging from $98,000 to $161,000 or from $.71 to $1.46 per square foot of land area. The appraiser made a negative adjustment to the comparables for time ranging from 3% to 6%; a negative adjustment to the comparables for location ranging from 5% to 40%; a 5% negative adjustment to land sale #1 for size; a 20% negative adjustment to comparables #1 and #3 for zoning; and a 25% positive adjustment to comparable #3 for shape/utility. Based on these adjustments, which were based to a large extent on the appraiser's general experience, the adjusted prices ranged from $.67 to $.72 per square foot of land area. McFarland estimated the subject land had an estimated value of $.70 per square foot of land area or $120,000, rounded.

The next step under the cost approach was to estimate the cost new of the improvements. The report indicated the appraiser developed the replacement cost new using construction cost figures compiled by Marshall Valuation Service. The report stated that replacement cost is the cost of constructing, at current prices, a building having utility equivalent to the building being appraised, but built with modern materials and according to current standards, design and layout. The report further stated that the use of replacement cost concept presumably eliminates all functional obsolescence, and the only depreciation to be measured is physical deterioration and economic obsolescence.

The replacement cost of the subject was based on an average quality, Class "C" Convalescent Hospital with a base cost of

$118.08 per square foot of building area. The replacement cost new of the building was estimated to be $3,546,659. The appraiser estimated the replacement cost of the site improvements to be $75,200. When one adds these components the estimated replacement cost new is $3,621,859. The appraiser estimated the replacement cost new of the FF&E to be $6,000 per bed or $672,000, which he added to arrive at a replacement cost new of the FF&E, building and site improvements of $4,125,540. The appraiser then applied a time adjustment factor of .9608 to arrive at a replacement cost new of $4,125,540. To this the appraiser added 10% for entrepreneurial profit to arrive at a total replacement cost new of $4,538,094.

The appraiser next estimated the physical depreciation of the structural improvements was 40% based on the age-life method and 5% for functional obsolescence due to lack of sprinklers and inefficient heating and cooling systems. The appraiser also was of the opinion the subject suffered from $336,000 in deferred maintenance, which was a separate deduction. The appraiser also was of the opinion the physical depreciation of the FF&E was 60% resulting in a depreciated value of $284,090. Based on these calculations the appraiser estimated the building and site improvements had a depreciated value of $2,181,886. To this amount the appraiser added $284,090 for the FF&E, deducted $336,000 for deferred maintenance and added $120,000 for the land value to arrive at an indicated value of $2,250,000, rounded. The appraiser indicated within the report this included a business enterprise value and FF&E.

The next approach developed by the appraiser was the income approach to value. The appraiser stated within the report the subject has 40,880 potential patient days. He further noted the subject property has 4 private rooms, which had an occupancy rate of 62.5% on the date of inspection, December 31, 2009, and an average occupancy rate in 2008 of 61.1%. The appraisal further indicated the reported census mix as of January 1, 2009 included 28 Medicaid beds with a rate of $107.78 per patient day, 4 private room patients with rates that ranged from $130.00 to $148.00 per patient day with an average of $132.00 per patient day, 24 semi-private room patients with rates that ranged from $105.00 to $123.00 per patient day and averaged $110.25 per patient day and 8 Medicare patients with an average rate of $413.95 per patient day. The report also indicated the 2008 census mix at the subject which included 43.6% private pay, VA and other patient days; 13.0% Medicare patient days and 43.4% Medicaid patient days. The appraiser then used four skilled nursing facilities to estimate the market rent of the subject property. The comparables were located in Nashville, Carlyle, Highland and Aviston, Illinois, and had from 97 to 230 licensed beds. The comparables had semi-private rates of $101.00 to $131.50 per patient day and private pay rates ranging from $75.00 to $148.00 per patient day.

Using this data the appraiser estimated the market rent for private, VA and other was $114.50 per patient day for a potential income of $1,872,304; the Medicare rate was estimated to be $398.00 per patient day resulting in a potential gross income of $2,115,131; and the Medicaid rate was estimated to be $107.78 per patient day resulting in a potential gross income of $2,070,842. Adding these estimates resulted in an estimated potential gross income for the subject property of $6,058,277.

The appraiser next reported that subject had historical occupancy rates of 65.8% in 2006; 62.0% in 2007; 61.1% in 2008; and stood at 57.1% as of January 1, 2009. He further stated that the comparables had 2008 occupancy levels ranging from 44.6% to 93.3%. The appraiser estimated the subject had a stabilized occupancy of 61% resulting in vacancy and collection loss of 39% or $2,362,728. Deducting the vacancy and collection loss resulted in income of $3,695,549. The appraiser estimated ancillary income for the subject to be $398,989, which was added to arrive at an effective gross income of $4,094,538.

In estimating the expenses the appraiser used the subject's historical expenses and the expenses reported at comparable facilities, excluding real estate taxes. Using this information the appraiser estimated expenses of $3,693,391 should be deducted to arrive at an estimated net income of $401,147.

The final step was to estimate the capitalization rate to be applied to the subject's net income. Using direct capitalization the appraiser referenced seven sales of skilled nursing facilities with overall rates ranging from 11.0% to 16.92%. Using the band of investment technique the appraiser estimated a capitalization rate of 13.8%. The appraiser ultimately estimated the subject property had a capitalization rate of 13.5% to which he added 2.3% for an effective tax rate resulting in a total capitalization rate of 15.8%. Capitalizing the net income resulted in an estimated value of $2,538,905 from which the appraiser deducted $336,000 for deferred maintenance to arrive at an estimated value under the income approach of $2,200,000, rounded.

The final approach to value developed by McFarland was the sales comparison approach using five comparable sales located in Nashville, Carlinville, Swansea, O'Fallon and Lebanon, Illinois. The comparables were improved with buildings that ranged in size from 24,828 to 64,027 square feet of building area and were built from 1964 to 1975. These properties had sites ranging in size from 100,188 to 493,535 square feet of land area resulting in land to building ratios ranging from 3.34:1 to 10.24:1. These properties were licensed to have from 94 to 230 beds. The report indicated the comparables sold from August 2006 to November 2008 for prices ranging from $1,750,000 to $5,175,000 or from $17,327 to $33,621 per bed. The report indicated sale #1 sold for a price of $5,300,000, which included a $750,000, 6 year interest free promissory note from the seller. The appraiser adjusted this price to $5,175,000 to reflect the favorable financing. Sale #3 was reported to be purchased out of foreclosure with the property being marketed prior to auction. Sale #4 was reported to have closed since the time of purchase due to the ownership not being able to maintain sufficient funding levels. The appraiser made negative adjustments to comparables #2 through #5 of 4% and 6%. The appraiser made adjustments to the comparables for such factors as location, size, quality, age/condition, occupancy/economics and land to building ratio. McFarland estimated the comparables had adjusted sales prices ranging from $22,455 to $22,800 per bed. Based on this data the appraiser estimated the subject had a market value of $22,700 per bed or $2,542,400. The appraiser next deducted $336,000 for deferred maintenance to arrive at an estimated value of $2,200,000, rounded.

In reconciling the three approaches to value the appraiser explained that the value estimates under each approach included the value of the business enterprise and FF&E. The appraiser stated within the appraisal that the income approach was given primary emphasis. The appraiser asserted the sales comparison approach supported the value derived by the income approach while the cost approach supported the values derived by both the income approach and the sales comparison approach. The appraiser estimated the subject property had a market value as a going concern, including the value of the business enterprise and FF&E of $2,200,000 as of January 1, 2009.

The appraiser then stated within the appraisal that management companies are hired to operate a property for a fee and a 15% to 25% rate of return on the management fee is typical within the market to represent a going concern value for this type of property. McFarland estimated the subject had a management fee of $163,782 which he capitalized using a 20% rate of return to arrive at a business enterprise value of the going concern of $819,000. Deducting the estimated value of the business enterprise value and the depreciated value of the FF&E of $284,090 resulted in an estimated value of the fee simple in the real property of $1,100,000 as of January 1, 2009.

McFarland testified that he used the Rushmore method of estimating the going concern value. According to the witness the Rushmore method utilizes the management people component and capitalizes that into an indication of business value.

Under cross-examination the appellant's witness testified the business value component was considered in the indirect costs of the cost approach to value. He also testified the deferred maintenance issue was outlined in the addendum of the appraisal at Exhibit E and on page 59 of his report, which included various cost estimates to repair items. The witness also indicated that he did not outline or reference the Stephen Rushmore method in the appraisal when he calculated business value.

With respect to the comparable sales, the appraiser testified he looked at the Illinois Real Estate Transfer declarations associated with the sales. He testified, however, you can't rely on those records because the allocations are based on someone's estimate.[1] The witness indicated for each of the comparable sales he used there was no allocation for goodwill, going concern value or personal property.

Based on this evidence the appellant requested the subject's assessment be reduced to $366,667 to reflect McFarland's appraised value for the real estate.

The board of review submitted its "Board of Review Notes on Appeal" wherein its final assessment of the subject totaling $673,240 was disclosed. The subject had a land assessment of $43,000 and an improvement assessment of $630,240. The subject's assessment reflects a market value of $2,060,738 or $18,399 per bed using the 2009 three year average median level of assessments for Clinton County of 32.67%.

In its submission the board of review submitted a copy of the subject's property record card, marked as exhibit A. Linda Mensing, the Clinton County Chief County Assessment Officer (CCAO), testified that the back of the property record card contained the cost calculations used to arrive at the assessment. She testified Marshall and Swift calculations were used to establish the value of the subject property. The property record card disclosed the depreciated value of the building improvements and the paving totaled $1,890,730, which resulted in an assessment of $630,240 when applying the statutory level of assessments. The property record card also indicated a land value of $129,000, which resulted in a land assessment of $43,000 when applying the statutory level of assessments.

The board of review also submitted an analysis of the appellant's appraisal prepared by the Illinois Department of Revenue, Office of Appraisals, which was marked as Exhibit B. No signatory of the analysis was present at the hearing to provide testimony about the purported analysis.

The board of review also submitted copies of the Illinois Real Estate Transfer Declarations (PTAX-203) for seven land sales located in Breese, Clinton County, marked as Exhibit C. The land comparables ranged in size from .65 to 18.49 acres or from 28,314 to 805,424 square feet of land area. The sales occurred from April 2004 to June 2009 for prices ranging from $35,000 to $277,989 or from $.25 to $1.66 per square foot of land area.

The board of review also submitted copies of the Illinois Real Estate Transfer Declarations (PTAX-203) for the appraiser's improved comparable sales and copies of the Illinois Real Estate Transfer Declaration Form A (PTAX-203-A) associated with appraiser's improved sales #2, #3, #4 and #5, which was marked as Exhibit D. This information indicated that appraiser's

[1] Step 4 of Form PTAX-203 provides in part that, "Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses."

comparable sale #1 sold for a price of $5,300,000 with $1,300,000 attributed to personal property resulting in a price for the real property of $4,000,000 or $17,391 per bed. The transfer declaration for appraiser's comparable sale #2 indicated full consideration of $2,407,774 with $415,774 as personal property leaving a net consideration for real property of $1,992,000 or $21,652 per bed. The transfer declaration for appraiser's sale #3 indicated a full actual consideration of $2,125,000 with nothing allocated to personal property. The net consideration for the real property was $2,125,000 or $22,606 per bed. The transfer declaration for appraiser's comparable sale #4 indicated full consideration of $1,600,000 with $0 as personal property leaving a net consideration for real property of $1,600,000 or $11,034 per bed. The transfer declaration for appraiser's comparable sale #5 indicated full consideration of $1,815,000 with $275,000 as personal property leaving a net consideration for real property of $1,540,000 or $15,248 per bed. Item 8 on the Form PTAX-203-A associated with sales #2 through #5 in the appellant's appraisal was answered "yes" to the question, "In your opinion, is the net consideration for real property entered on Line 13 of Form PTAX-203 a fair reflection of the market value on the sale date?"

Based on this information, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and considering the evidence submitted by the parties, 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 Board finds the evidence in the record supports a reduction in the subject's assessment.

The appellant presented an appraisal estimating a market value of the real estate associated with the subject property of $1,100,000 or $9,821 per bed. The Board finds the opinion of value set forth by the appellant's expert is not credible in light of the data in the record.

First, the appraiser estimated the subject had an indicated value under the cost approach of $2,250,000, which according to the witness included a business enterprise value and the value of the FF&E. The witness asserted the business enterprise component was considered an indirect cost. The Board finds this testimony is not credible. The Board finds the cost approach to value typically estimates the market value of the real estate without any intangible assets. In the appraisal the appraiser asserted that replacement cost new was employed to estimate the value of the building components. The definition of replacement cost new within the report is void of any reference to a component for business enterprise value. In developing a cost approach an appraiser must consider direct (hard) and indirect (soft) costs. Direct costs include the costs of material and labor as well as the contractor's profit required to construct the improvement as of the effective date of the appraisal. Indirect costs are expenditures that are necessary for construction but are not typically part of the construction contract such as architectural and engineering fees; appraisal, consulting, accounting and legal fees; the cost of carrying the investment and contract payments during construction; insurance and ad valorem taxes; marketing costs; and administrative expenses of the developer.[2] The Board finds there is no component in the cost approach to value for a business enterprise value and no deduction should be made for this element.

In the appraisal McFarland estimated the replacement cost new of the building and site improvements totaled $3,827,870. Deducting the physical depreciation ($1,531,148), functional obsolescence ($114,836) and deferred maintenance ($336,000) results in a replacement cost new after depreciation of $1,845,886. Adding the appraiser's estimated land value of $120,000 to the depreciated improvement value results in an estimated value under the cost approach totaling $1,965,886. This estimated value is similar to that contained on the cost approach submitted by the board of review. Board of review Exhibit A had a depreciated cost new of the building and site improvements totaling $1,890,730 to which an estimated land value of $129,000 was added to arrive at an estimated value of $2,019,830, which is 6.8% higher than the appraiser's estimated value. Both of these value estimates exclude any business enterprise value and FF&E.

Similarly, in the sales comparison approach, the Board finds there should be no adjustment to the sales data for FF&E or a business enterprise value. The record contains copies of the Illinois Real Estate Transfer Declarations (PTAX-203) for the

[2] See The Appraisal of Real Estate, 12th Edition, Appraisal Institute, 358-359 (2001).

appraiser's improved comparable sales and copies of the Illinois Real Estate Transfer Declaration Form A (PTAX-203-A) associated with appraiser's improved sales #2, #3, #4 and #5, which was marked as Board of Review Exhibit D. This information indicated that appraiser's comparable sale #1 sold for a price of $5,300,000 with $1,300,000 attributed to personal property resulting in a price for the real property of $4,000,000 or $17,391 per bed, which differs from that reported by the appellant's appraiser. The transfer declaration for appraiser's comparable sale #2 indicated full consideration of $2,407,774 with $415,774 as personal property leaving a net consideration for real property of $1,992,000 or $21,652 per bed, which differs from that used by the appellant's appraiser. The transfer declaration for appraiser's sale #3 indicated a full actual consideration of $2,125,000 with nothing allocated to personal property. The net consideration for the real property was $2,125,000 or $22,606 per bed, which is the same as that contained in the appellant's appraisal. The transfer declaration for appraiser's comparable sale #4 indicated full consideration of $1,600,000 with $0 as personal property leaving a net consideration for real property of $1,600,000 or $11,034 per bed, which differs from that contained in the appellant's appraisal. The transfer declaration for appraiser's comparable sale #5 indicated full consideration of $1,815,000 with $275,000 as personal property leaving a net consideration for real property of $1,540,000 or $15,248 per bed, which differs from the appellant's appraisal. Furthermore, item 8 on the Form PTAX-203-A associated with improved sales #2 through #5 in the appellant's appraisal was answered "yes" to the question, "In your opinion, is the net consideration for real property entered on Line 13 of Form PTAX-203 a fair reflection of the market value on the sale date?" The appellant's appraiser was not called in rebuttal to explain the discrepancies from his report and the transfer declarations with respect to the reported sales prices of the comparables. Using this data the comparables had sales prices ranging from $11,034 to $21,652 per bed, exclusive of FF&E and any business enterprise value. The subject's assessment reflects a market value of $2,060,738 or $18,399 per bed using the 2009 three year average median level of assessments for Clinton County of 32.67%, which is within the range on a per bed basis.

The appraiser also developed an income approach to value resulting in an estimated value of $2,200,000, which the appraiser stated included a business enterprise value and the FF&E. The Board finds the appraiser's calculation for the business enterprise value was not credible and not supported by any objective evidence in this record. The Board finds, however, a deduction for FF&E in the amount of $284,090 is justified, resulting in an indicated value under the income approach of $1,915,910 or $17,106 per bed.

In conclusion, after considering the cost approach, the sales contained in the sales comparison approach of the appraisal and the income approach as outlined above, the Board finds the subject property had a market value of $1,950,000 as of January

1, 2009. Since market value has been determined Board finds the 2009 three year average median level of assessments for Clinton County of 32.67% shall apply. (86 Ill.Admin.Code §1910.50(c)(1)).

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: June 22, 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.