

OHIO BOARD OF TAX APPEALS

Good Shepherd Home for the Aged,)
Inc.,)
) (REAL PROPERTY TAX)
Appellant,)
) DECISION AND ORDER
vs.)
)
Ashland County Board of Revision,)
Ashland County Auditor, and the)
Ashland City School District)
Board of Education,)
)
Appellees.)

APPEARANCES:

For the Appellant - Karen H. Bauernschmidt Co., LPA
Karen H. Bauernschmidt
Kelly C. Delaney
700 West St. Clair Avenue
Suite 214
Cleveland, Ohio 44113-1230

For the County Appellees - Rich, Crites & Dittmer, LLC
James R. Gorry
300 East Broad
Suite 300
Columbus, Ohio 43215

For the Appellee Board of Education - Pepple & Waggoner, Ltd.
Christian M. Williams
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Cleveland, Ohio 44131-6808

Entered March 4, 2005

Ms. Jackson, Ms. Margulies, and Mr. Eberhart concur.

The Board of Tax Appeals is considering this matter pursuant to a notice of appeal filed by Good Shepherd Home For the Aged, Inc. (“appellant”). The appellant has appealed from a decision of the Ashland County Board of Revision (“BOR”) that determined the value of the subject real property for tax

year 2002. The property is located in the Ashland city school district and is identified on the auditor's records as parcels P44-037-0-43, P44-037-0-0044, and P44-037-0-45.

The value determined by the Ashland County Auditor and the BOR is as follows:

Parcel P44-037-0-43

	TRUE VALUE	TAXABLE VALUE
Land	\$ 14,890	\$ 5,210
Building	\$ 12,000	\$ 4,200
Total	\$ 26,890	\$ 9,410

Parcel P44-037-0-44

	TRUE VALUE	TAXABLE VALUE
Land	\$ 34,400	\$ 12,040
Building	\$ 0	\$ 0
Total	\$ 34,400	\$ 12,040

Parcel P44-037-0-45

	TRUE VALUE	TAXABLE VALUE
Land	\$ 125,230	\$ 46,830
Building	\$ 943,890	\$ 330,360
Total	\$1,069,120	\$ 377,190

The total value is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 174,520	\$ 64,080
Building	\$ 955,890	\$334,560
Total	\$1,130,410	\$398,640

In the notice of appeal, appellant has alleged that the correct value is as follows:

Parcel P44-037-0-43

	TRUE VALUE	TAXABLE VALUE
Land	\$ 14,900	\$ 5,210
Building	\$ 560	\$ 200
Total	\$ 15,460	\$ 5,410

Parcel P44-037-0-44

	TRUE VALUE	TAXABLE VALUE
Land	\$ 34,400	\$ 12,040
Building	\$ 0	\$ 0
Total	\$ 34,400	\$ 12,040

Parcel P44-037-0-45

	TRUE VALUE	TAXABLE VALUE
Land	\$ 133,800	\$ 46,830
Building	\$ 606,340	\$ 212,220
Total	\$ 740,140	\$ 259,050

The total alleged value is as follows:

	TRUE VALUE	TAXABLE VALUE
Land	\$ 183,100	\$ 64,080
Building	\$ 606,900	\$212,420
Total	\$ 790,000	\$276,500

The matter has been submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript certified by the BOR, and the brief filed by counsel for the appellant.

The subject property, commonly known as “Good Shepherd Villa,” is a 41-unit apartment complex built in 1981 upon a 1.29-acre site in Ashland, Ohio. The site is improved with perimeter concrete walkways, landscaping and an asphalt-paved parking lot on the north end of the site that can accommodate 28 vehicles.

The appellant submitted the testimony and appraisal report of Charles G. Snyder in support of its reduction request. Mr. Snyder opined the property has been very well maintained and is considered to be of good quality and in good physical condition. The complex has a total of 36 one-bedroom units and 5 two-bedroom units. Each unit offers a full bathroom, fully equipped kitchen, and living room. All of the units have a small balcony. The one-bedroom units offer 508 square feet of rentable area, while the two-bedroom units offer 695 square feet of living area. Each suite is equipped with a stove, disposal and refrigerator.

Common areas include a coin-operated laundry facility on the second floor, front reception area, community room, and two private offices. Men's and women's restrooms are on the first floor. The building has a roof top HVAC unit. The lower level is partially finished with a 24 by 24-foot recreation room. The building has sprinklers and is serviced by an elevator.

Mr. Snyder estimated value using the market and income approaches to value.¹ His market approach analysis examined four improved property sales. The first was a sale of four three-story apartment buildings in Wooster, Ohio on

¹ Ohio Adm. Code 5703-25-07(D) provides that in the absence of a recent arm's-length sale, "true value in money" may be arrived at by an appraisal which considers any or all of the following recognized valuation approaches: (1) the market approach, in which recent sales of comparable properties are analyzed; (2) the income approach, in which net income attributable to the property is capitalized; and (3) the cost approach, which adds the depreciated cost of the improvements to the land to the value of the land itself. The board notes that Mr. Snyder did not use the cost approach. In *Canton Towers, Ltd. v. Bd. of Revision* (1983), 3 Ohio St.3d 4, the Supreme Court concurred that the use of the cost approach in valuing such a property is not useful:

“Without a federal loan guarantee, favorable mortgage terms, rent subsidy, and income tax advantages, the cost of construction for such housing would be prohibitively expensive. Considering the nature of this project, we do not find the BTA's rejection of the cost approach to be unreasonable or unlawful.” Id. at 7.

April 30, 1999 for \$2,850,000. The second sale was a seven-story apartment building in Akron, Ohio that sold February 1, 2002 for \$3,756,600. The third sale was two six-story apartment buildings in Akron, Ohio that sold May 17, 2001 for \$13,525,000. The fourth sale was a two-building mid-rise apartment complex in Cleveland, Ohio that sold October 11, 2001 for \$5,320,000.

Mr. Snyder made a market adjustment to the first sale to reflect differing economic conditions and the subsequent appreciation that occurred to similar properties within the region. He made upward location adjustments to the second and fourth sales as he considered them to have an inferior location to the subject. He made a downward adjustment to the first sale reflecting the excess land as compared with the subject. The first and fourth sales required an upward adjustment to reflect their inferior condition as compared to the subject. He made an upward adjustment to the first sale to reflect its inferior public area. After adjustments the four sales indicated a per unit value of \$25,000. Multiplying the subject's 41 units times \$25,000 produced a value of \$1,025,000 via the market approach.

His income approach initially estimated potential gross income by examining three rent comparables in Ashland, Ohio. The first was a 38-unit apartment complex. The rent for a one-bedroom apartment was \$419 per month, and the rent for a two-bedroom apartment was \$539 per month. The second comparable was a 34-unit apartment complex. The rent for a one-bedroom apartment was \$429 per month, and the rent for a two-bedroom apartment was \$539 per month. The third was a 24-unit complex. The monthly rents were \$535

for a lower level unit, \$575 for the second level, and \$560 for the third level. All of the rent comparables included the tenant paying for utilities, and Mr. Snyder felt them to be slightly inferior in terms of condition as compared to the subject. He concluded that the subject's one-bedroom units could command a rent of \$510 per month, while the two-bedroom units could command a rent of \$585 per month. Multiplying the 36 one-bedroom units times \$510 produced an annual income of \$220,320. Multiplying the five two-bedroom units times \$585 produced an annual income of \$35,100. Adding the totals produced an annual projected gross income of \$255,420.

Mr. Snyder estimated operating expenses by examining the subject's expense sheets for 2000, 2001, and 2002. He also reviewed expense information from several other multi-level apartment facilities. The following list represents his forecasted operating expense breakdown based upon historic expense data provided by the subject's owners and the market standards:

Insurance	\$ 18,000
Electricity	\$ 41,000
Water & Sewer	\$ 8,300
Gas	\$ 4,000
Trash Removal	\$ 1,300
Maintenance & Repairs	\$ 26,000
Management & Administration	\$ 18,000
Replacement reserves (\$.20/s.f.)	<u>\$ 7,600</u>
Total Estimated Operating Expenses	\$124,200

The projected gross income of \$255,420 minus seven percent for vacancy and collection loss, or \$17,879, produced an effective gross income of \$237,541. Adding the laundry income of \$2,500 to this figure produced a total effective gross

income of \$240,041. He then subtracted operating expenses of 51 percent, or \$124,200, producing a net operating income of \$115,841.

Mr. Snyder used three methods, direct capitalization, a band of investment technique, and a debt coverage ratio analysis to determine an appropriate capitalization rate. His direct capitalization method looked at sales from surrounding counties, which ranged from 8.5 percent to 10.3 percent. He opined that these sales supported an overall capitalization rate of 10 percent for the subject.

His band of investment analysis surveyed local financial institutions, which indicated that mortgage loans were available at a rate of 6.75 percent for 20-to-25 year terms at loan-to-value ratios of 75 to 80 percent. Based upon this data, he opined that the best available financing for the subject property would be a 20-year loan for 80 percent of value at a rate of 7.5 percent with a five-year balloon payment. Assuming monthly payments, the mortgage constant would be .0967. The equity portion of the equity dividend rate was based upon alternative investments, which yield a return on an investment without the burden of management and the risk inherent in real estate ownership. His survey of local financial institutions indicated that mortgage loans were available at a rate of seven to eight percent for 20-to-25 year terms at a loan-to-value ratio of 80 percent. Based upon these quotations he opined that the best available financing for the subject property would be a 20-year loan for 80 percent of value at a rate of 7.5 percent. Assuming monthly payments, the mortgage constant was .0967. The

following table illustrates the mortgage equity calculation used to determine the capitalization rate:

	Portion		Rate	Weighted Average
Mortgage	.80	x	.0967	.0774
Equity	.20	x	.10	.02
Indicated Rate				.0974

He rounded the .0974 weighted average to 9.7%.

Mr. Snyder's debt coverage ratio analysis was based upon a review of the marketplace. Debt coverage ratios of 1.10 to 1.25 were indicated with 1.20 percent the typical benchmark. Debt coverage ratios in a national mortgage commitment survey compiled by the Appraisal Institute's research department for the fourth quarter of 1998 indicated that on multi-family buildings valued at less than \$5,000,000, debt coverage ratios ranged from 1.05 to 1.60 percent, which he determined to be supportive of a 1.2 percent debt coverage ratio. Multiplying the 1.2 debt coverage ratio times a mortgage constant of .0967 times the .80 mortgage portion produced a rate of .0928 which he rounded to 9.3 percent.

Since he opined that the debt coverage ratio was more of a lender-driven capitalization technique used for loan purposes, he gave greater consideration to the band of investment and direct capitalization techniques. He accordingly concluded that a capitalization rate of 10 percent was appropriate. To this figure he added a tax additur of 1.6 percent which produced an overall capitalization rate of 11.6 percent. Dividing the net operating income of \$115,841 by the capitalization rate of 11.6 percent indicated a value of \$998,629, which he rounded to \$999,000.

In his final reconciliation of value, Mr. Snyder considered both the sales comparison approach and the income capitalization approach. He gave primary consideration to the income approach, concluding that \$1,000,000 was the most supportable value. He estimated the value of the furniture, fixtures, and equipment to be \$1,500 per unit, or \$61,500. Subtracting \$61,500 from \$1,000,000 produced a value for the subject real property of \$938,500.

In considering the record before us, we acknowledge the affirmative burdens that exist in an appeal to this board from a decision of a county board of revision finding value. In its decisions in *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336, and *Springfield Local Bd. of Edn. v. Summit Cty. Bd. of Revision* (1994), 68 Ohio St.3d 493, the Supreme Court made it clear that in an appeal filed pursuant to R.C. 5717.01, there exists no presumption that the values found by a county board of revision are correct. Nevertheless, an appellant has the burden of presenting evidence in support of the value that it has asserted. Once competent and probative evidence of value has been presented, then the other parties to the appeal have the burden of providing evidence which rebuts that of the appellant. *Springfield Local Bd. of Edn.*, supra; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318, 319.

We further note that the issue in an appeal from a board of revision is the true value of the property. Accordingly, this board will proceed to examine the available evidence and determine value based upon the evidence before us. *Coventry Towers, Inc. v. Strongsville* (1985), 18 Ohio St.3d 120. In doing so, we

will determine the weight and credibility to be accorded the evidence presented. *Cardinal Fed. S. & L. Assn. v. Cuyahoga Cty. Bd. of Revision* (1975), 44 Ohio St.2d 13.

In *State ex rel. Park Investment Co. v. Bd. of Tax Appeals* (1964), 175 Ohio St. 410, the court set forth the manner by which the value of real estate is to be ascertained:

“The best method of determining value, when such information is available, is an actual sale of such property between one who is willing to sell but not compelled to do so and one who is willing to buy but not compelled to do so. Paragraph two of the syllabus in *In Re Estate of Sears* (citation omitted). This, without question, will usually determine the monetary value of the property. However, such information is not usually available, and thus an appraisal becomes necessary. It is in this appraisal that the various methods of evaluation, such as income yield or reproduction cost, come into action. Yet, no matter what method of evaluation is used, the ultimate result of such an appraisal must be to determine the amount which such property should bring if sold on the open market.” *Id.* at 412.

The subject property is a federally subsidized housing project that would not have been constructed absent the existence of the government subsidy. The Supreme Court has held that such property is to be valued with due regard for market rents, market income, and market expenses. *Alliance Towers, Ltd. v. Stark Cty. Bd. of Revision* (1988), 37 Ohio St.3d 16. This board has also held that in the valuation of subsidized housing, an appraiser’s reliance upon market, rather than actual or contract data, is appropriate. *Lutheran Social Serv. Of Central Ohio v. Franklin Cty. Bd. of Revision* (May 7, 2004), BTA No. 2002-V-1870, unreported;

Bd. of Edn. of the Vandalia-Butler City School Dist. v. Montgomery Cty. Bd. of Revision (Jan.23, 2004), BTA No. 2002-V-1596, unreported, appeal pending Sup. Ct. No. 04-343; *Hunters Oak Ltd. Part. v. Darke Cty. Bd. of Revision* (Jan. 11, 2002), BTA No. 2000-V-794, unreported; *Wind Rose Apartments v. Columbiana Cty. Bd. of Revision* (Sept. 19, 1997), BTA No. 1996-M-1164, unreported. Mr. Snyder's analysis has complied with the court's and this board's mandates inasmuch as his analysis was based upon a review of the marketplace. The board finds Mr. Snyder's conclusion persuasive.

Since the appellant has submitted competent evidence of value, the burden has shifted to the other parties to submit evidence rebutting appellant's evidence. *Westhaven, Inc. v. Wood Cty. Bd. of Revision* (1998), 81 Ohio St.3d 67. The county and the BOE opted not to submit affirmative evidence of value, relying instead upon cross-examination of appellant's witness. The board finds that the cross-examination has failed to discredit the appraiser's conclusions.

Therefore, based upon a preponderance of the evidence, the board finds and determines that the value of the subject property as of January 1, 2002 is as follows:

Parcel P44-037-0-43

	TRUE VALUE	TAXABLE VALUE
Land	\$ 14,890	\$ 5,210
Building	\$ 9,590	\$ 3,360
Total	\$ 24,480	\$ 8,570

Parcel P44-037-0-44

	TRUE VALUE	TAXABLE VALUE
Land	\$ 34,400	\$ 12,040
Building	\$ 0	\$ 0
Total	\$ 34,400	\$ 12,040

Parcel P44-037-0-45

	TRUE VALUE	TAXABLE VALUE
Land	\$ 125,230	\$ 43,830
Building	\$ 754,390	\$ 264,030
Total	\$ 879,620	\$ 307,860

The total value is as follows:²

	TRUE VALUE	TAXABLE VALUE
Land	\$ 174,520	\$ 61,080
Building	\$ 763,980	\$267,390
Total	\$ 938,500	\$328,470

The Auditor of Ashland County is ordered to cause his records to reflect the value determined herein for the subject real property and to assess the same in accordance therewith as provided by law.

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² The total value has been allocated among the individual parcels in the same proportion as the BOR value.