



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARLON I. BROWN, DPA
DIRECTOR

Brookdale Senior Housing LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MTT Docket No. 22-001372

City of Southfield,
Respondent.

Presiding Judge
Marcus L. Abood

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Brookdale Senior Housing LLC, appeals ad valorem property tax assessments levied by Respondent, City of Southfield, against parcel number 76-24-17-351-016 for the 2022 tax year. A hearing was held on this matter on April 8-9, 2024. Jason C. Long, Attorney, appeared on behalf of Petitioner. Laura M. Hallahan, and Seth A. O’Loughlin, Attorneys, appeared on behalf of Respondent. Petitioner’s witness was Brandon Ellis. Respondent’s witness was John Widmer Jr.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (TCV), state equalized value (SEV), and taxable value (TV) of the subject property are as follows:

Parcel Number: 76-24-17-351-016

Year	TCV	SEV	TV
2022	\$14,800,000	\$7,400,000	\$7,350,414

PETITIONER’S CONTENTIONS

Petitioner’s contentions of TCV, SEV, and TV are as follows:

Parcel Number: 76-24-17-351-016

Year	TCV	SEV	TV
2022	\$12,075,000	\$6,037,500	\$6,037,500

Petitioner’s appraiser points out a typographical error within his appraisal report. Specifically, the income analysis resulted in an 8% capitalization rate and not an 8.25% capitalization rate. The indication of value changed from \$12,075,000 to \$12,368,837.

Petitioner contends that the subject property is over-assessed.

Petitioner contends that the subject occupancy levels declined subsequent to the COVID pandemic. Further, competition from other senior living properties has impacted the subject's value. The subject's immediate market area (city of Southfield) is inferior to other neighboring markets.

Petitioner points out that there are several commonalities between the appraisers' income analysis. However, the difference in devised number of units for the subject property does not result in a significant difference in base rental rate. Noted differences in expenses (namely utilities) are at issue. Fixed utility expenses need to be accounted for separate from business expenses.

Petitioner's appraiser analyzed demographics from sources including the National Investment Center for Senior Housing (NIC) and Marcus and Millichap. Comparisons were made between the city of Southfield and Oakland County for population, unemployment, household income, number of households, etc.

Petitioner's appraiser asserts that age specific demographics were not necessary. Such information is expressed in the appraisal report through occupancy trends and rental rates paid.¹

Petitioner's appraiser reviewed other senior care facilities in the area including Park at Franklin, Sterling Place, and Park House Southfield. Further, Petitioner's appraiser previously appraised Sterling Place.

Petitioner's appraiser expects the subject to underperform compared to the over Detroit market occupancy rates. This is because the city of Southfield is not an affluent market compared to other superior markets.²

The appraiser considered all three approaches but only developed the income approach to value. The cost approach was not developed due to the difficulty in quantifying functional and external obsolescence. Moreover, investors do not rely on this approach in their decision-making processes. The sales comparison approach was not developed because there are very few sales of senior care facilities. From those sales, allocating values between the going concern component and the real estate is very difficult to accomplish.

Petitioner's income approach was based on a direct income capitalization and not on a yield capitalization (discounted cash flow). Revenues, vacancies, expenses, and capitalization rates were researched and analyzed for the income analysis of the subject property. The NIC survey was reviewed to allocate the going concern and real estate value components. Overall, the NIC portion attributable to the real estate ranges from

¹ Tr, Vol 1, 85.

² Tr, Vol 1, 140.

40 to 55 percent. Petitioner's appraiser allocated 50 percent of the income attributable to the subject's real estate.³

Petitioner's appraiser analyzed the subject unit types (studio, 1-bedroom, 2-bedroom, and combination). There are 46 units which have been turned into combination units. In other words, there are 23 combination units. Petitioner's appraiser took the rental rates from those 23 combined units and divided it by two to get an actual per unit rental rate.⁴

Petitioner's appraiser researched market rents from other independent living facilities for studio, 1-bedroom, and 2-bedroom units. The market did not indicate facilities with combination units like the subject. Again, Park at Franklin, Sterling Place, Park House, and Imperial Senior Living were analyzed for unit rents as well as additional revenues from ala carte' services. The appraiser has appraised three of these four senior care facilities and has reviewed their expense information as well.

Petitioner's appraiser analyzed the subject and comparables expense information and entries to arrive at \$1,479,267 in expenses (\$6,817 per unit).

Petitioner questions Respondent's comparable sales and the allocations between going concern and real property values.⁵

PETITIONER'S ADMITTED EXHIBITS

- P-1: Appraisal Report prepared by Brandon Ellis.
- P-4: Subject Income Statement ending December 2019.
- P-5: Subject Income Statement ending December 2020.
- P-6: Subject Income Statement ending December 2021.
- P-15: U.S. Commercial Real Estate, Investment Outlook – Seniors Housing 2021, Marcus & Millichap.

PETITIONER'S WITNESSES

Petitioner's witness, Brandon Ellis, is a Certified General Real Estate Appraiser in the state of Michigan. He is designated through the Appraisal Institute. He has been a real estate appraiser for 25 years. The parties mutually agreed to stipulate to each party's expert witness. Based on his background, training, education, and experience, Mr. Ellis was admitted as an expert in the valuation of real estate.

³ Tr, Vol 1, 32.

⁴ Tr, Vol 1, 34.

⁵ Tr, Vol 2, 66-72.

RESPONDENT'S CONTENTIONS

The property's TCV, SEV and TV, as confirmed by the BOR, are as follows:

Parcel Number: 76-24-17-351-016

Year	TCV	SEV	TV
2022	\$15,100,000	\$7,550,000	\$7,350,414

Respondent's appraiser asserts that senior apartments (55 plus and independent living) are going to be similar to regular apartments.⁶ However, an independent living facility will have additional services including meal plans, housekeeping, and transportation activities.

Respondent's appraiser's data sources included assessing records, ownership documents, BS&A records, NIC Reports, CoStar, National Apartment Association (NAA), Cushman-Wakefield, and Commercial Broker Real Estate (CBRE).

Respondent's appraiser contends that the subject is comprised of 194 units and not 217 units. Certain units were combined to create larger units. The combination units may have two entry doors, but the units were modified to take out one kitchen. An arched doorway was created to connect the combined units. The proper analysis of the subject building is as 194 units.⁷

Respondent's appraiser analyzed market demographics including the older age segments. Analysis was also applied in a 3-mile, 5-mile, and 10-mile radius. The percentage changes and increase in senior populations were noted.⁸

Respondent's appraiser reviewed several competitors in the market to surmise comparability to the subject property. His judgments are based on websites and reviews.⁹

Respondent's appraiser reviewed and analyzed the subject's rent rolls from 2019 through 2021 as well as profit and loss statements (P/L) from 2018 through 2022 which show the subject's rent increases.¹⁰

Respondent's appraiser analyzed the subject's rent change as 2.9% growth projected forward for the 12-month period.¹¹

⁶ Tr, Vol 1, 207-209.

⁷ Tr, Vol 1, 220-221.

⁸ Tr, Vol 1, 225-226.

⁹ Tr, Vol 2, 82-83.

¹⁰ Tr, Vol 1, 238-240.

¹¹ Tr, Vol 2, 9-10.

Respondent's appraiser analyzed market allocation between the going concern and the real estate. He reviewed NIC reports as well as CBRE reports. He concluded to a 50% allocation to the real estate of \$1,552.01. He then applied a 2% increase from the subject's actual 2021 rent of \$3,043 for a conclusion of independent living rent of \$3,104 per month.¹² He asserts that independent living units outperformed other unit types from 2019 through 2021 as analyzed through NIC reports.¹³

Respondent's appraiser considered all three approaches to value but relied on the income approach to value. The cost approach was not developed because of the age of the subject building. Further, market participants would not rely on a cost approach in the purchase of the subject property. The sales comparison approach was developed but not for the purpose of a value indication due to the difficulty in analyzing the real property value separately from the going concern value. Respondent relies primarily on the income approach to value to properly determine the market value for the subject real property.

RESPONDENT'S ADMITTED EXHIBITS

R-1: Appraisal Report prepared by John Widmer Jr.

R-3: December 2020 Rent Roll, Brookdale Senior Living.

RESPONDENT'S WITNESS

Respondent's witness, John Widmer Jr., prepared a valuation disclosure for the subject property. He is a Certified General Real Estate Appraiser licensed in the state of Michigan and designated through the Appraisal Institute. The parties mutually agreed to stipulate to each party's expert witness. Based on his education, background, and experience, the Tribunal accepted Mr. Widmer as an expert in the valuation of real estate.

FINDINGS OF FACT

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusions and has rejected evidence contrary to those findings.

1. The subject property is located at 25800 West Eleven Mile Road, in the city of Southfield and within Oakland County.
2. Oakland County is located in southeast Michigan.
3. The subject property is comprised of 6.17 acres and is improved with a 5-story independent living senior building constructed in 1999.

¹² Tr, Vol 2, 13-15.

¹³ Tr, Vol 2, 20.

4. The subject building contains 194 units.
5. The subject property is zoned RC, Regional Center.
6. Petitioner owns senior living properties nationwide.¹⁴
7. The subject property is an income producing property. In other words, the subject property is not owner-occupied.
8. The subject property is only designed for independent living units. The subject property is not equipped for assisted living units.¹⁵
9. The subject property's 2021 TV assessment only changed at the statutorily prescribed rate of inflation for 2022.
10. Petitioner submitted a valuation disclosure in the form of an appraisal report prepared by Brandon Ellis.
11. Petitioner's appraiser considered all three approaches to value but only developed the income approach to value.
12. Petitioner's appraiser analyzed the subject property on the basis of 217 units.
13. Petitioner's income approach included four rental comparable properties (Park at Franklin, Sterling Place, Park House Southfield, and Imperial Senior Living).
14. Petitioner's market rental rate for the subject property is based on four rental properties with quoted rents from 2023.¹⁶
15. Petitioner's NIC data indicated that independent living facilities in the Detroit market area had a stabilized occupancy of 83.3 percent from 2020-2021 which was outperforming the national market.¹⁷
16. According to the Marcus & Millichap Report, Detroit has the 10th most senior unit developments under construction in the country.¹⁸
17. Petitioner's appraiser utilized four senior facilities as expense comparables. None of the expense comparable properties have independent living units.¹⁹
18. Petitioner's appraiser relied on allocations between going-concern expenses and real estate expenses without supporting documentation.²⁰
19. Petitioner's appraiser's capitalization rate analysis did not include independent living properties.²¹
20. Respondent submitted valuation evidence in the form of an appraisal report prepared by John Widmer Jr.
21. Respondent's appraiser considered all three approaches to value but only developed the sales and income approaches to value.
22. Respondent's appraiser placed his sales comparison approach within the Scope of Work section of his appraisal report.
23. Respondent's appraiser developed eight sales for its sales comparison approach.

¹⁴ Tr, Vol 1, 119.

¹⁵ Tr, Vol 1, 103.

¹⁶ Tr, Vol 1, 124.

¹⁷ Tr, Vol 1, 134.

¹⁸ Tr, Vol 1, 136-137.

¹⁹ Tr, Vol 1, 149, and Pet's Exh P-1, p 94.

²⁰ Tr, Vol 1, 171.

²¹ Tr, Vol 1, 184.

24. Respondent's comparable sales are the Fountains on Franklin, Anthology of Troy, Anthology of Northville, Hampton Manor, Brighton Manor, Independence Village, University Living, and Randall Residences.
25. Respondent's comparable sales are all senior care facilities. Each comparable sale denoted 5-mile radius demographics.
26. Respondent's appraiser developed an income approach which included five rental properties in southeast Michigan.
27. Respondent's appraiser analyzed the subject property on the basis of 194 actual units.
28. Each party's appraiser included interior photographs of the subject building. Photographs included the dining rooms, kitchens, hallways, basement storage area, and activity room.
29. Each party's appraiser denoted 49 studio units, 89 1-bedroom units, and 33 2-bedroom units for the subject property. Petitioner's appraiser denoted 46 combination units for the subject property. Respondent's appraiser denoted 23 combination units for the subject property.
30. Each party's appraiser determined that 50% of the subject's monthly income is attributable to the real estate and not the going concern operations.²²
31. Each party's appraiser made adjustments for personal property and non-stabilized occupancy (rent loss) to the subject property.
32. Respondent's appraiser determined deferred maintenance of \$1,151,774 to the subject property in 2022.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its TCV.²³

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not exceed 50 percent.²⁴

The Michigan Legislature has defined TCV to mean:

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained

²² Pet Exh P-1, 13 and Resp Exh R-1, 106.

²³ See MCL 211.27a.

²⁴ Const 1963, art 9, sec 3.

for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.²⁵

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”²⁶

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”²⁷ The Tribunal is not bound to accept either of the parties' theories of valuation.²⁸ “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”²⁹ In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”³⁰

A proceeding before the Tax Tribunal is original, independent, and de novo.³¹ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”³² “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”³³

“The petitioner has the burden of proof in establishing the true cash value of the property.”³⁴ “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party.”³⁵ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”³⁶

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation approach.³⁷ “The market approach is the only valuation method that directly reflects the

²⁵ MCL 211.27(1).

²⁶ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

²⁷ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

²⁸ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

²⁹ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

³⁰ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

³¹ MCL 205.735a(2).

³² *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

³³ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

³⁴ MCL 205.737(3).

³⁵ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

³⁶ MCL 205.737(3).

³⁷ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

balance of supply and demand for property in marketplace trading.”³⁸ The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the TCV of the property, utilizing an approach that provides the most accurate valuation under the circumstances.³⁹ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁴⁰

SUBJECT MARKET DESCRIPTION AND ANALYSIS

The parties’ appraisers described and analyzed the subject market through various demographics. The acknowledgment of the subject within the southeast market is relevant in this instance. The influences of Oakland County as well as southeast Michigan should not be discounted. Said differently, the analysis of rents, vacancies, and commercial uses etc. are not reasonably confined to the subject’s municipal boundaries. Respondent’s appraiser’s macro analysis through CoStar was tailored to his radius analysis (1-mile, 3-mile, and 5-mile) with demographic data. Petitioner’s reference to the less than affluent city of Southfield is not as compelling as Respondent’s demographics which emphasized age trends in the subject market. There is no dispute that in general, populations are aging, and people are living longer. The demand for all levels of senior care has increased. Southfield and its alleged lack of influence may be applicable to Continuing Care Retirement Community (CCRC) developments but was not articulated by Petitioner. The focus here is independent living in the subject market area which is not exclusively in the city of Southfield. The issue of market affluence is not the issue here. The subject is competitive within the market even though the subject is not a CCRC.

As will be discussed further in this opinion, Respondent’s data analysis is consistent with its market analysis. Respondent’s appraiser demonstrated a strong analysis of the subject market area and its transition. Therefore, Respondent’s neighborhood description and market analysis are given weight and credibility in the Tribunal’s determination of market value for the subject property.

HIGHEST AND BEST USE

The subject property was originally developed as a senior housing facility. The parties’ appraisers have concluded to a similar highest and best use for the subject. The Tribunal finds that there is no dispute that the subject’s highest and best use is its continued use as a senior care facility.

Closely related to the subject’s highest and best use, reference is made to the parties’ market description and analysis. Common to each analysis is the market data relied

³⁸ *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

³⁹ *Antisdale, supra* at 277.

⁴⁰ See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

upon by the parties. Existing senior care facilities are located in the subject's neighborhood as well as in southeast Michigan.

In valuation theory, the comparables' highest and best uses are expected to mirror a subject property. However, in valuation practice, the subject and comparable sales may have different uses. Realistically, the use of a comparable may change, subsequent to the sale of that property. A comparative analysis looks at the use of each comparable sale in line-item fashion (for example, zoning) which allows for various acceptable uses. The purpose of a comparative analysis is to thresh out the sale property as a comparable sale. A comparable sale may have a different use but have the same zoning at the subject property. Consequently, the highest and best use for the subject property is different than the "use" for a comparable property at the time of sale. Comparing and contrasting sales to the subject property is the expectation in a comparative analysis. Again, a benchmark for a variety of legal, physical, and financial uses may be achieved within certain zoning ordinances. Said differently, an appraiser's due diligence research in the "normal course of business" may not necessarily encompass a separate highest and best use analysis for each comparable sale. The rigid perception that the subject and comparable sales must have the same highest and best use is not practical or reasonable. The Tribunal does not accept the premise that sales only become comparable sales when they have the same exact highest and best use as the subject property.

COST APPROACH

Generally, a cost approach is most applicable for new or newer properties. As reasoned, a newly constructed property would have minimal depreciation. On the other hand, a cost analysis is more problematic for older properties in quantifying all forms of depreciation. The elements for a cost analysis include the determination of land value, the replacement cost new (RCN) for building improvements, a calculation of physical, functional, and external depreciation, and site improvements. As noted, neither party developed the cost approach to value. Therefore, there is no basis for the Tribunal to have considered this approach to value for the subject property.

SALES COMPARISON APPROACH

As noted, Petitioner's appraiser did not develop a sales comparison approach to value. On the other hand, Respondent's appraiser developed a comparative analysis housed within his Scope of Work section of his appraisal report.⁴¹

⁴¹ Respondent's appraiser's rationale for placing a sales comparison approach within the Scope of Work section of the appraisal report is nonsensical. Respectfully, a developed comparative analysis is noteworthy to be placed as a standalone section within an appraisal report. An attempt to hide or minimize the relevance of such an approach by placing it within the Scope of Work section is misleading and not meaningful. Respondent's appraiser's intimate working knowledge of his comparable sales further warrants the placement of the sales comparison approach outside of his Scope of Work section of the report. Such comparable sales illustrate activity within a subject market and may be appropriately placed in the market description and analysis of an appraisal report.

Respondent's sales comparison adjustment grid is a conventional framework for a comparative analysis.⁴² Respondent's appraiser analyzed eight sales for comparison to the subject. All of the sales are located in southeast Michigan. Respondent's analysis of senior care facilities included age demographics which were applied to comparable adjustments. Respondent's appraiser explained the difficulties in relying on wide unit pricing from the sales data. Respondent's caveat for this sales data is acknowledged, especially given the various types of services (independent living, assisted living, skilled nursing) within each property. Further, there are difficulties in distinguishing the real property value from the going concern value in senior care facilities.

Nonetheless, the sales data provided evidence for market activity and competition of senior care facilities. Respondent's market sales are relevant and are given consideration in the Tribunal's independent determination of market value for the subject property.

INCOME APPROACH

The subject property is an income producing commercial property. In other words, the property is not owner-occupied but has tenant leased space. As noted, each party developed an income approach to value. The subject property is a commercial property with existing senior tenant leases. The subject is a multi-tenant occupied building. Existing senior facilities in southeast Michigan were researched, reviewed, and analyzed. As articulated below, the Tribunal considered each income element to arrive at an independent determination of market value from the income approach.

First, the parties' respective rent rate analyses were reasonably presented. Each appraiser applied rental data in a comparative analysis. Petitioner's appraiser analyzed four rental properties to derive a base rental rate. The appraiser analyzed the asking rents for the subject with the consideration of discounts and concessions for the subject units. On the other hand, Respondent's appraiser analyzed the subject's contract rents to the market. Respondent's appraiser further analyzed quoted rental rates, actual rent rates, and net rent rates.⁴³ Respondent's appraiser analyzed eight senior care properties to derive a base rental rate.

Petitioner's appraiser developed a rental rate for the subject on the basis of 217 units. This took into account combination units at the subject property. In other words, Petitioner's appraiser counted each subject combined unit as two separate units. As noted in the Findings of Fact, each combined unit functions as a single unit. Petitioner's

⁴² As a format issue, Respondent's presentation and illustration for its sales comparison adjustment grid is not understandable or readable. First, the adjustment grid does not include the subject property's line-item entries. The purpose of the comparative grid is to show the subject and comparable sales side by side. Second, the comparable sales are only identified by number; the comparable sales are not identified by their address or location. The purpose of the comparative adjustment grid analysis is to illustrate and allow the reader to easily understand side by side comparisons for the identified subject and comparable properties.

⁴³ Tr, Vol 1, 235-236 and Resp Exh R-3.

combined units were modified to eliminate a duplicate kitchen. The Tribunal is not convinced by Petitioner's thought that there is no difference between 217 units and 194 units in the overall analysis.⁴⁴ Moreover, Petitioner's appraiser was uncertain whether he had viewed an actual combination unit.⁴⁵ On the other hand, Respondent's subject interior photographs were more detailed and descriptive than Petitioner's photographs. Respondent's appraiser inspected specific numbered units including a combination unit.⁴⁶ Therefore, Respondent's determination of 194 subject units is relevant and applicable to the income analysis.

Second, the subject's potential gross income (PGI) is calculated by applying the market supported base rental rate by the subject's units. Petitioner's PGI is \$3,597,400 and Respondent's PGI is \$3,707,516. While each appraiser accounted for miscellaneous income, Respondent's revenue analysis also applied discounts based on leasing concessions. The appraisers' respective PGIs bracket the Tribunal's independent determination of \$3,650,000 for the subject.

Third, the next element in the income analysis is vacancy and credit loss. Petitioner's vacancy element is \$630,063 and Respondent's vacancy entry is \$556,127. Overall, Respondent's appraiser analyzed NIC data more thoroughly than Petitioner's appraiser. Respondent's appraiser applied NIC national data along with CoStar local data for his determinations. Further, he analyzed vacancy on the basis of *frictional vacancy*⁴⁷. The level of detail and analysis included the subject's rent rolls with an application to the subject market.⁴⁸ On the other hand, Petitioner's appraiser only referenced NIC data for his vacancy/credit loss.⁴⁹ The appraisers' respective vacancy and credit loss entries closely bracket the Tribunal's independent determination of \$600,000 for the subject.

Fourth, effective gross income (EGI) was determined by taking the PGI of \$3,650,000 and deducting the vacancy and credit loss of \$600,000. The resulting EGI is \$3,050,000 which is closely bracketed by Petitioner's EGI of \$2,967,337 and Respondent's EGI of \$3,151,388.

Fifth, operating expenses were analyzed and determined by each party's appraiser. Expense analysis included property taxes, insurance, common area and maintenance (CAM), management, administrative, and reserves. Petitioner's appraiser included expense comparable properties comprised of different types of care (assisted living, memory care, skilled nursing).⁵⁰ Respondent's appraiser analyzed NAA data for expenses. General apartment data was reasoned to more closely resemble independent living rental units.⁵¹ However, Respondent's expense comparable

⁴⁴ Tr, Vol 1, 175-179.

⁴⁵ Tr, Vol 1, 96.

⁴⁶ Tr, Vol 1, 216-217.

⁴⁷ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 7th ed, 2022), p 79.

⁴⁸ Tr, Vol 2, 26-29.

⁴⁹ Pet Exh P-1, 87 and Tr, Vol 1, 90.

⁵⁰ Pet Exh P-1, 94.

⁵¹ Tr, Vol 2, 33.

properties were deemed to be confidential in nature.⁵² Likewise, multiple properties were lumped together in Respondent's columned expense analysis.⁵³

Both appraisers covered the subject's financial information from 2018 to 2022. However, Respondent more properly analyzed market information than Petitioner. Respondent's appraisal report illustrated and disclosed more data than Petitioner's appraisal report. Again, Respondent also elaborated on a greater analysis for discounts and concessions to the leased units. Respondent's use, illustration, and application of NIC data and NAA data is more persuasive.

Logically, the number of units will impact the expenses for a senior care facility. Fixed expenses may stay constant, but more units and more tenants mean more expense (maintenance, upkeep). Likewise, independent living units would have more amenities than general apartments. Thus, it would not be unreasonable that rental rates would be greater than general apartments for even 55+ senior facilities. The subject amenities were not testified as detriments to the value of the property. The subject does not suffer from external or functional obsolescence. These considerations are noteworthy within Respondent's appraiser's testimony and valuation evidence.

Overall, Petitioner's expense comparables are not more persuasive than Respondent's unidentified expense data. Petitioner's primary reliance on Brookdale facilities is not the definitive market data for expense comparisons. His expense comparables included all types of senior care (assisted living, memory care, skilled nursing). Moreover, Petitioner's reliance on judgment and experience in the absence of documentation is not reasonable. For example, Petitioner's appraiser relied on apartment expense information not found in his appraisal report or workfile.⁵⁴ Therefore, greater weight and credibility is given to Respondent's operating expenses. Petitioner's operating expenses were denoted at \$1,479,267 and Respondent's operating expenses were denoted at \$1,244,962. The parties' operating expenses bracket the Tribunal's independent determination for this element at \$1,300,000.

Sixth, the next income element is the calculation of the net operating income (NOI). As previously and independently determined, the operating expenses of \$1,300,000 are deducted from the EGI of \$3,050,000. The resulting NOI is \$1,750,000.

Seventh, as articulated by the appraisers, a capitalization rate analysis parallels the level of risk associated with the subject property. Petitioner's capitalization analysis included 1) abstracted rates from apartment sales in southeast Michigan, 2) a Realty

⁵² Obtaining revenue and expense information for specific properties is a daunting task for appraisers. The Tribunal acknowledges an appraiser's adherence to confidentiality in receiving such information. However, an appraiser is not precluded from providing generic information. For example, location (southeast Michigan), units greater/less than 100, type of senior facility, etc. Such generic items present a level of due diligence and credibility to an appraiser's analysis.

⁵³ Tr, Vol 2, 34.

⁵⁴ Tr, Vol 1, 172.

Rates Investor Survey, and capitalization rates from assisted living sales. Petitioner concluded to a loaded capitalization rate of 11.27%.

Respondent's capitalization analysis included 1) a CBRE Senior Housing & Care Survey, 2) Cushman & Wakefield market extracted capitalization rates for senior care facilities from around the country, and 3) a Realty Rates Investor Survey for senior care facilities. Respondent's indication of an overall capitalization rate is 11.17%.

Each appraiser's capitalization methods were considered. Again, as analyzed by both appraisers, the capitalization rate took into account the level of risk associated with the subject property. In general, all types of senior care facilities are unavoidable from the appraisers' analysis of capitalization rate surveys. Overall, the parties' due diligence in the capitalization rate analysis is given weight. Moreover, the close range brackets the Tribunal's independent capitalization rate (including the relevant tax percentage) at 11.20%.

In succession, the NOI indication of \$1,750,000 is divided by the capitalization rate of 11.20% which results in an independent determination of \$15,625,000 from the parties' income elements for the subject property.

As noted, the parties' appraisers made adjustments for the non-stabilized occupancy (rent loss) of the subject property as well as personal property. The deduction entries are relatively identical. Therefore, a rent loss deduction of \$500,000 and a \$325,420 deduction for personal property are applied to the Tribunal's independent TCV determination of \$15,625,000. The final TCV determination for the subject property as of December 31, 2021 is \$14,799,580 (\$14,800,000 rounded).⁵⁵

FINAL RECONCILIATION OF APPROACHES TO VALUE

The income analysis considered the subject's contract rent in the context of southeast Michigan data. Likewise, Respondent's sales comparison analysis considered the sales of senior care facilities in the subject market area. The variety of facilities (independent living, assisted living, and skilled nursing) coincides with the parties' demographics for a growing senior population. Likewise, there is no evidence on the record of external or functional obsolescence to impact the subject's TCV. Again, the parties' rental and sales data proved the existence of senior care facilities in the subject market area. The Tribunal's independent determination of market value from the parties' income data and analysis is \$14,800,000. The Tribunal considered Respondent's comparable sales, analysis, and adjustments as an overall check of reasonableness. Based on the overall data and the attributes of the subject and subject market area, the Tribunal's independent determination of market value for the subject property is \$14,800,000 as of December 31, 2021 for the 2022 tax year.

⁵⁵ Respondent's further adjustment for deferred maintenance in 2022 appears to be misplaced. Such denoted items would potentially impact the subject's 2023 true cash value. Moreover, these items did not occur in 2021 to otherwise impact the TCV for 2022. The Tribunal has considered Respondent's claimed deferred maintenance and gives it no weight or credibility in the final conclusion of value.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner's expert witness and evidence is not more persuasive than Respondent's valuation evidence and cogent analysis. The parties' overall valuation evidence warranted the application of the income and sales comparison approaches to value. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's SEV and TV for the tax year(s) at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2013, through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018, through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019, through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, (xiii) after December 31, 2022, through June 30, 2023, at the rate of 5.65%, (xiv) after June 30, 2023, through December 31, 2023, at the rate of 8.25%, (xv) after December 31, 2023, through June 30, 2024, at the rate of 9.30%, (xvi) after June 30, 2024, through December 31, 2024, at the rate of 9.50%, and (xvii) after December 31, 2024, through June 30, 2025, at the rate of 9.47%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty or disabled veterans exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

Alternatively, you may file a claim of appeal with the Michigan Court of Appeals. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal of right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." A copy of the claim of appeal must be filed with the Tribunal to certify the record on appeal. There is no certification fee.

By  _____

Entered: February 19, 2025

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provided by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk