

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SUNNY ACRES HEALTH HOLDINGS, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 75096</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 21, 2019, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Lee E. Schiller, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2018 actual value of the subject property.

The Board admitted Petitioner’s Exhibits 1, 3 and 5 and Respondent’s Exhibits A and B into the evidence.

Subject property is described as follows:

**2501 E. 104th Avenue, Thornton
Adams County Schedule No. R0172837**

The subject is a multi-building, senior housing facility that offers continuing care, including independent living, assisted living, memory care, and skilled nursing care. All improvements on the property were constructed between 1969 and 1977, with the exception of the assisted living and memory care building that was added in 2006. The subject is situated on a 35.72-acre site. The most recent sale of the subject occurred on July 1, 2017 as a part of a \$22 million, two-facility portfolio that included the subject and another similar senior housing campus located in Colorado Springs, Colorado.

Petitioner is requesting an actual value of \$14,670,000 for the subject property for tax year 2018. Respondent assigned a value of \$35,818,680 for the subject property for tax year 2018.

Petitioner's witness, Ms. Rhonda Brown, Wellness Director at The Villas at Sunny Acres, testified to the services offered at the subject, condition of the improvements and occupancy status during the base period. Ms. Brown noted significant issues in many of the buildings, including problems with the roof, HVAC system, and sewer. She described the facility as "run down, and shabby" as of June 30, 2016. The property condition reportedly caused significant vacancy within the facility, with several buildings 50% to 100% vacant (unhabitable) as of the date of value.

Petitioner's witness, Mr. Jean-Pierre LoMonaco, an appraiser with Valuation & Information Group, presented an appraisal of the subject concluding to a value of \$14,670,000. Mr. LoMonaco developed the cost, market, and income approaches to value within the report. However, the witness testified that the greatest reliance was given to the market approach. He first determined the value of the subject as a "going concern", then made deductions for equipment (i.e. furniture, fixtures, and equipment or FF&E) and intangible business value to conclude to the value of the real estate.

Respondent's witness, Jacquelyn L. Headley, Certified Residential Appraiser with the Adams County Assessor's Office presented a Restricted Appraisal Report which indicated a value of \$51,906,973 based on the market approach. Ms. Headley testified that no adjustments were required for equipment or business value.

Respondent assigned an actual value of \$35,818,680 to the subject property for tax year 2018.

The Board recognizes that the subject is correctly classified as a residential property. The "actual value of residential real property shall be determined solely by consideration of the market approach to appraisal. A gross rent multiplier may be considered as a unit of comparison within the market approach to appraisal." Section 39-1-103(5)(a), C.R.S. Although Petitioner presented an appraisal that included all three approaches to value, the Board can only consider the analysis provided in the market approach. Further, the Board notes that no consideration can be given to the July 2017 sale of the subject as part of a \$22 million two-facility sale, as that transaction occurred beyond the applicable base period.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2018 valuation of the subject property was incorrect.

Standard appraisal practice identifies specific considerations for care facilities. The Board referenced "*The Appraisal of Nursing Facilities*" by James K. Tellatin, MAI in considering the valuation of this property type.

Petitioner's appraiser correctly utilized a price per bed as the unit of comparison. That is the methodology most often used for this property type, as indicated in James K. Tellatin's "*The Appraisal of Nursing Facilities*." The Board finds Respondent's use of price per square foot to be an inferior approach based on industry standards.

Petitioner relied on sales of continuing care properties which included skilled nursing, assisted living, independent care, or a combination of those services within a single facility. Of the six sales considered, one was located in Lakewood, Colorado; the remainder were outside the state.

Respondent's sales consisted of single use facilities (as opposed to continuing care), including nursing homes, independent and assisted living facilities. Respondent's sales were generally superior to the subject in terms of age, condition, and use. Therefore, the Board was convinced that the sales presented by Petitioner supported the most probative value.

The Board found unconvincing several adjustments made by Petitioner to the sales, including an adjustment for occupancy, operations (reflecting net operating income per bed according to Mr. LoMonaco's testimony), and the final deduction for intangible business value as being reflective of an income approach.

Using Petitioner's comparable sales as the basis, the Board recasts the sales comparison analysis as follows:

Sale	1	2	3	4	5	6	Average
	\$33,679	\$81,591	\$75,700	\$67,000	\$99,167	\$83,152	\$73,382
location	3.0%	0.0%	2.0%	3.0%	3.0%	3.0%	
age/cond	0.0%	0.0%	0.0%	0.0%	-4.0%	-5.0%	
sf/bed	-3.0%	2.0%	2.0%	2.0%	2.0%	-3.0%	
Total	100.0%	102.0%	104.0%	105.0%	101.0%	95.0%	
adj value	\$33,679	\$83,223	\$78,728	\$70,350	\$100,159	\$78,994	\$74,189
		\$83,223	\$78,728	\$70,350		\$78,994	\$77,824

Prior to adjustment, the sales indicated a range in price of \$33,679 to \$99,167 per bed and an average of \$73,382. After adjustment solely for location, age/condition, and square feet/bed, the data produced a similar range, from \$33,679 to \$100,159 per bed, with an average of \$74,189. Eliminating the high (sale 5) and low (sale 1) ends of the range, the four remaining sales indicate a relatively narrow range of \$70,350 to \$83,223 per bed and an average of \$77,824. Based on the Board's reconstructed grid, the sales support a rounded value of \$75,000 per bed both before and after adjustment.

The Board found the testimony of Ms. Brown and Mr. LoMonaco more credible as to the condition of the subject. The Board did not find Ms. Headley's testimony regarding the condition to be credible, as it understated the severe issues (i.e. roof, HVAC system, and sewer backup) and resulting vacancy suffered by the subject throughout the base period. The Board adopts Petitioner's estimated occupancy level of 53% or approximately 278 beds, taking into the account portions of buildings that were uninhabitable for all or at least a portion of the base period.

Further, the Board found insufficient evidence to support a nearly \$4.8 million deduction for intangible business value for a property that suffered significant maintenance issues and the resulting high vacancy.

Based on the above findings, the Board has recalculated the subject's 2018 value as follows:

Occupiable Beds	278
Value per bed	<u>\$75,000</u>
	\$20,850,000
Less: personal property	<u>-\$510,000</u>
Adjusted value	\$20,340,000

The Board concludes that the 2018 actual value of the subject property should be reduced to \$20,340,000.

ORDER:

Respondent is ordered to reduce the 2018 actual value of the subject property to \$20,340,000.

The Adams County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of August, 2019.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:

Sondra W. Mercier

Sondra W. Mercier

Concurring Board Member:

Debra A. Baumbach

Debra A. Baumbach,
*concurring without modification pursuant to
Section 39-2-127(2), C.R.S.*

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

