IN THE COMMONWEALTH COURT OF PENNSYLVANIA

The Village at Penn State Retirement Community	:	
v.	:	No. 2190 C.D. 2008
Centre County Board of Assessment Appeals, Appellant	:	No. 209 C.D. 2009 Argued: December 7, 2009

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE DAN PELLEGRINI, Judge
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
SENIOR JUDGE FLAHERTY FILED: March 10, 2010

Centre County Board of Assessment Appeals (Board) appeals from a decision of the Court of Common Pleas of Centre County (trial court) which granted in part and denied in part, The Village at Penn State Retirement Community's (Village) motion for post-trial relief, clarified the trial court's previous order, denied the Board's motion for post-trial relief and dismissed all other post-trial motions.[1] The trial court's previous order of October 21, 2008, granted the Village's appeal from the decision of the Board, determined the fair

[1] As there are no post-trial motions in statutory appeals, we will treat the January 30, 2009 order as an order "clarifying" the prior order, Pa. R.A.P. 1701(b)(1), and allow both appeals to go forward without any further procedural problems.

market value (FMV) for the Village to be $29,127,215.00, and directed the Village be granted full credit, with interest, for all overpayments from the tax years 2004 through 2007. We affirm.[2]

The Village owns five parcels of land (Property), located in Patton and College Townships and entirely within the State College Area School District (School District). The parcels are 18-004-043A (Patton), 19-003-0100B (College), 19-003-100B,225 (College), 19-003-100B,229 (College), and 19-003-100B,233 (College).

The Village received a real estate tax assessment for the 2005 tax year regarding Property and appealed it to the Board. The Village appeared before the Board on October 14, 2004. The Board denied the appeal by a decision dated November 16, 2004. The Village appealed the Board's decision to the trial court.

Subsequently, for the 2006 tax year, the Board reassessed parcel 18-004-043A. A timely appeal was filed, resulting in a decision by the Board dated November 17, 2005. On December 2, 2005, the Village filed a petition for review to the trial court. The Village later filed a motion for consolidation, which was not opposed by the Board. The two actions were consolidated by order of the trial court on December 16, 2005, and an amended order was issued on January 4, 2006.

On June 14, 2007, a hearing was held before the trial court. The record was closed on August 28, 2007, following the Village's submission of an affidavit by David S. Barr, dated August 16, 2007 and the Board's submission of

[2] An *amicus curiae* brief has been filed by the County Commissioners Association of Pennsylvania (County).

an affidavit by Gerald Dann, dated August 20, 2007. Oral argument was held on March 24, 2008. The trial court made the following relevant findings of fact:

> 2. The Village is a continuing care retirement community, or CCRC. A CCRC is a retirement community that provides its residents with facilities and services designed to meet their needs along a continuum from independent living to skilled nursing care.
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> 3. The Village is a nonprofit corporation, managed by a nine person board of directors. The Village is operated by CRSA, a management company based in Memphis, Tennessee.
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> 4. The Village came into existence in 1999, and officially opened its doors for business in 2003.
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> 6. Centre County is a Fifth Class County.
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> 7. The highest and best use for the subject property is its current use, a continuing care retirement community.
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> 8. The Property is located on leased land, owned by Penn State University. Based on the lease agreement between The Village and Penn State, and by stipulation of the parties, the Property is to be taxed as a fee simple interest.
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> 9. The Property is improved with a continuing care retirement community containing a total square footage of 345,000.
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> 10. The Property is zoned University Planned District (UPD) in Patton Township and University Residential (UR) in College Township.

11. Construction was completed and initial occupancy took place in January 2004.

12. The parties stipulated to the admissibility and accuracy of the assessed value, the common level ratio, and the indicated market value for the five parcels in dispute. The agreed-upon values are as follows:

Year	Total Assessed Value	CLR	Indicated Market Value
2004	$8,843,440	.373	$23,708,954
2005	$8,429,470	.329	$25,621,488
2006	$12,950,540	.309	$41,911,132

The values for 2004 and 2005 reflect a reduction based on start up low occupancy. The CLR for 2006 is as of the date of the hearing.

13. The Village is located on 50.17 acres of land in Patton and College Townships in Centre County, Pennsylvania.

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15. The following buildings are situated on the Property:

- The Commons Area Building, which includes dining and fitness facilities, and common areas.
- Four Apartment Buildings, consisting of 138 independent living apartments.
- Twelve detached, independent living cottages.
- A health center, with a 36 bed capacity.

16. At the time of hearing, The Village had 206 independent–living residents and approximately 35 residents in the health center, for a total of approximately 240 residents. This is an occupancy rate of 91% in independent living, and between 95% and 100% in the assisted living areas.

17. Each party presented evidence from appraisers. The appraisers placed greater weight on the income

> approach to valuation than on the sales or market approach.
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> 18. Both appraisers agreed they would place a market value on the Property of $40,000,000 for financing purposes.

Trial court opinion, Findings of Fact, at 2-4, 6-13, and 15-18. The trial court found that the Village provided probative evidence that would overcome the Board's *prima facie* case. The trial court found the Village's expert, Elliott Weinstein, to be credible. The trial court also found the Board's expert, Mark Shonberg to be credible. However, the trial court found that Shonberg did not make deductions from his income figures for service-related income, and that adjustments must be made to eliminate business value from net income, pursuant to Willow Valley Manor, Inc. v. Lancaster County Board of Assessment Appeals, 810 A.2d 720, 727-728 (Pa. Cmwlth. 2002). The trial court determined that:

> combining the approaches of these two expert witnesses yields the correct real estate assessment value for tax purposes. The Court will not review every assumption, or recalculate every value, used by these two experts. Instead, the Court will accept most of their testimony and will adjust some of the values to comply with Pennsylvania assessment law.

Trial court opinion at 11.

The trial court accepted Shonberg's cost value of $41,900,000.00 as a maximum possible assessment value. The trial court then determined that Weinstein's income approach value of $14,200,000.00, which Weinstein modified to $17,000,000.00 during the hearing, was reached by discounting total income by 65% and adding the stipulated value of the undeveloped acreage,

$1,080,000.00. The trial court stated that this value was not in accordance with the holding in Willow Valley.[3]

According to the trial court, nearly all of the Village's income is attributable to the independent living facilities with a small amount of the income attributable to the skilled nursing facility. Trial court opinion at 12. Weinstein's inconsistency with the Willow Valley decision could not be reconciled by the trial court and the Village provided no explanation for this inconsistency. Thus, the trial court recalculated the income approach value by discounting net income by 25%. Doing so yielded a value of $28,047,215.00. Adding the $1,080,000.00 for the stipulated value of the undeveloped acreage, the resulting income approach value is $29,127,215.00. According to the trial court, this new value does not exceed the maximum possible assessment value, being Shonberg's cost value of $41,900,000.00. It also reflects the actual construction costs which necessarily increase the assessed value of the Property through the reduced discount.

On October 21, 2008, the trial court granted the Village's appeal from the Board and determined the FMV for the Property to be $29,127,215.00; that the market value for each of the parcels should be determined in accordance with the proportional share of each parcel as reflected in the current tax assessment; and directed the Village be granted full credit, with interest, for all overpayments that have occurred in the tax years 2004 through 2007. Both parties filed post-trial motions. The trial court denied the Board's motion for

[3] In Willow Valley, our court allowed a discount of income of only 20% of the income attributable to independent living facilities and 35% of the income attributable to the skilled nursing facility.

post-trial relief and denied all other motions for post-trial relief. Both parties appealed to this court, No. 2190 C.D. 2008 by the County and No. 2311 C.D. 2008 by the Village.[4]

On January 30, 2009, in response to the Village's post-trial motions, the trial court issued an order clarifying its October 21, 2008 order. The trial court set the following values in clarification of the trial court's previous order:

Tax year of Appeal	2004	2005	2006	2007	2008
Revised Assessment	$7,876,394	$7,071,639	$9,582,854	$9,000,309	$8,534,274
Common Level Ratio	0.396	0.373	0.329	0.309	0.293
Implied Market Value	$19,889,885	$18,958,819	$29,127,215	$29,127,215	$29,127,215

Following the clarification order, a protective appeal was filed by the Board with this court at No. 209 C.D. 2009. All appeals were consolidated by order of January 12, 2009.[5]

Before our court, the Board contends that it is appropriate to apply all net income from a CCRC (continuing care retirement community) to the real estate when the newly created CCRC has not yet yielded sufficient income to capitalize the initial cost and market value of construction; that where no testimony is presented regarding values for years during the pendency of an assessment appeal, the trial court may not make a finding of implied market value; and where the parties stipulate and all testimony concludes the value for

[4] No. 2311 C.D. 2008 was discontinued on September 22, 2009.

[5] Our review of a tax assessment appeal is limited to determining whether errors of law were committed, an abuse of discretion occurred, or whether findings of fact are unsupported by substantial evidence. First Korean Church of New York, Inc. v. Montgomery County Board of Assessment Appeals, 926 A.2d 543 (Pa. Cmwlth. 2006). The findings of the trial court are entitled to great weight and will only be reversed for clear error.

tax years 2004 and 2005 would be the same as the 2006 appraised values, the trial court may not reach a conclusion of a lower value.

First, the Board contends that it is appropriate to apply all net income from a CCRC to the real estate when the newly created CCRC has not yet yielded sufficient income to capitalize the initial cost and market value of construction.

Under Section 402 of The General County Assessment Law, Act of May 22, 1933, P.L. 853, as amended, 72 P.S. §5020-402, real estate is to be assessed for real estate tax purposes according to the "actual value thereof" using all three approaches to value in conjunction with one another: (1) the cost approach; (2) the comparable sales approach; and (3) the income approach.[6]

The record reveals that the trial court considered all three methods in conjunction with one another in arriving at the actual value. The admission of the assessment records into evidence established a *prima facie* case for establishing the validity of the assessed value of the property. The Village, as the taxpayer, then had the burden of coming forward with competent, credible and relevant evidence to rebut the validity of the assessment. The trial court is the fact-finder in tax assessment matters. Jackson v. Board of Assessment Appeals of Cumberland County, 950 A.2d 1081 (Pa. Cmwlth. 2008). The actual or FMV,

[6] The actual value of real estate is the market value, or FMV, which is defined as "the price which a purchaser, willing but not obligated to buy, would pay an owner, willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied." F&M Schaeffer Brewing Co. v. Lehigh County, 530 Pa. 451, 457, 610 A.2d 1, 3 (1992). Income-only valuation is not proper where the actual construction costs are known, recent, and available. Id. Under our real estate assessment law, only the value of the real estate is to be taxed, not the value of a business enterprise operating on the subject property. Hershey Entertainment and Resorts Company v. Dauphin County Board of Assessment Appeals, 874 A.2d 702, 707-708 (Pa. Cmwlth. 2005).

while not easily ascertained, is fixed by the opinions of competent witnesses as to what the property is worth on the market at a fair sale. Buhl Foundation v. Board of Property Assessment, 407 Pa. 567, 570, 180 A.2d 900, 902. The trial court must weigh the conflicting expert testimony and determine a value based upon credibility determinations. Air Products v. Board of Assessment, 720 A.2d 790, 792 (Pa. Cmwlth. 1998).

The trial court's opinion reveals that the conflicting expert testimony was considered and aspects of both appraisers' positions were accepted. The trial court has the discretion to decide which of the methods of valuation is the most appropriate and applicable to the given property. Id. When presented with conflicting experts, both of whom are found to be competent and credible, the fact-finder may determine that the FMV of the property lies somewhere between the values reached by the competing experts. Jackson. The trial court did exactly that in this case.

This court has held that "[t]he income approach is the most appropriate method for appraising a property typically purchased as an investment …." In re Appeal of V.V.P. Partnership, 647 A.2d 990, 992 (Pa. Cmwlth. 1994). In the present controversy, both experts followed the law, relied upon the income approach to valuation, and agreed that the income approach should be applied in this case.[7] Thus, both experts considered other methods, but

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[7] The Board's expert, Shonberg, was questioned as follows:

> Q. Mr. Shonberg … it appears that you agree with Mr. Weinstein that the income approach is the most appropriate method for appraising property typically purchased for an investment; is that correct?

Footnote continued on next page…

ultimately relied upon the income approach as the best method to determine the FMV of the Property. The trial court's decision to rely upon the income approach was appropriate and completely supported by both experts.

The only difference in the experts' appraisals is the manner in which they applied the income approach. Weinstein considered the fact that the law requires a separation of business income and realty related income, whereas Shonberg did not. In *Assessment Law & Procedure in Pennsylvania*, Bert M. Goodman, (2008 Ed.) 187-188, Professor Goodman explains that:

> It is axiomatic that a trial court in a tax assessment case consider the…[FMV]…of a property, not the value in use of the rental property. What is being valued by a court in this type of action is the real estate itself, more specifically, the location, the underlying land, and the physical structures on the building, not any business that uses the real estate. This area of valuation must be divorced from any value in use of the business and/or the function of management on the site….
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> The scheme of ad valorem taxation on real property does not encompass a tax on the business of the owner of the property, but rather a tax on the land, bricks and

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> A. That's correct.
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> Q. You agree that the Village … is such a property?
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> A. Yes, I do.

Notes of Testimony, Reproduced Record (R.R.) at 632a-633a. Shonberg further stated that he gave the income approach the primary weight, found that the sales approach did not really help here due to the lack of comparable sales and determined that the cost approach was used merely as a plausibility check and was not relied upon for his final value estimate. R.R. at 633a.

> mortar, etc. It is necessary in doing an analysis to separate management and business operation from the inherent value of the real estate itself.

In F&M Schaefer, the Supreme Court distinguished between "actual value" and "value-in-use," determining that value-in-use is "the value to a specific user" and found that it "did not represent fair market value." The Supreme Court explained that because value-in-use is based on the use of property and value to the current user, it may result in a value that is higher than market price. Therefore, such value-in-use evidence is irrelevant in tax assessment cases. The trial court in F&M Schaefer had adopted the county's appraisal which took into account the value-in-use of the property by first estimating the property's highest and best use, i.e., a brewery, and then applying a replacement cost approach based upon the utility of the property for that use (the production of 3.5 million barrels of beer per year). By doing so, the county erroneously valued the revenue generation capacity of the business rather than the property itself.

In the present controversy, Shonberg erroneously applied the value-in-use analysis when he chose to value the business of the Village, as opposed to the realty. In V.V.P. Partnership, the property in question was income producing, as income was generated from certain recreational activities and other services. The taxing authority argued that the taxpayer's use of an income valuation appraisal amounted to a prohibited value-in-use analysis, citing F&M Schaefer. This court determined that the development of an income approach by the appraiser did not constitute a value-in-use method because the utilization of the business income generated at the facility "did not place a value on the property significant only to the current owner, but that it valued the property to any owner,

since the property would only be purchased for its ability to produce income." V.V.P. Partnership, 647 A.2d at 992.

This court noted in V.V.P. Partnership, that the income approach was the most appropriate method for appraising a property purchased as an investment. This court described the expert's analysis: "he began his analysis with a stabilized annual income figure, and deducted business expenses derived from actual expenses generated by the rental of the tennis, racquetball and squash courts to reach a net income figure." Id. at 993. Income generated in the pro shop was specifically excluded, as not directly related to the realty. Id. at 993, n.5. Thus, this court found that this methodology and approach was "logical and reasonable, and was not in fact the equivalent of arriving at a value-in-use instead of actual value, or exchange-in-exchange." Id. at 992.

This court further stated in Hershey Entertainment, 874 A.2d at 707-708, that admission charges and revenue generated from food, beverage and souvenir purchases were "income generated by the business enterprises located on the property, not from the rental of the property itself." Thus, the value of the real estate would fluctuate from year to year. This approach amounted to an impermissible value-in-use assessment. In the present controversy, Shonberg has lumped together income associated with room rental, nursing care, medical supplies and a meal plan. Thus, engaging in prohibited value-in-use analysis.

In Willow Valley, like the present controversy, both appraisers used the capitalization of income approach, agreeing that the sales and cost approaches were inappropriate. This court determined that:

> investment income is attributable to business value, but we disagree that the trial court's overvalued the Willow Valley properties by including investment income and

> business value in the determination of fair market value …. However, the appraiser subsequently deducted from the net operating income for each facility, an amount representing business value, which included a management fee of 6 percent and 2- percent deduction representing intangibles and replacement value for furniture, fixtures, and equipment. The appraisal applied a capitalized ratio of 23 percent, representing business value and personal property. The appraiser testified that he considered the fact that the facilities contain a mixture of independent living, assisted living, and skilled nursing, and based his assessment on data indicating that the facilities were predominantly independent living facilities. The appraiser included marketing expenses in its operating expense deduction.
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> We agree that for valuation purposes, income should include only income attributable to the property and that business income should be excluded.

Id. 810 A.2d at 727-728. Unlike the expert in Willow Valley, Shonberg did not take any steps to reduce his income approach valuation to account for income attributable to the business.[8]

Further, Shonberg admitted that he took into account the value of services such as transportation, health care, nursing care, programming, a restaurant, a beauty salon and an ice cream parlor in reaching his conclusion of value for the Property. R.R. at 659a-660a. Shonberg clearly applied the income approach in a manner that valued not only the land and buildings in the Village but also the services that the residents purchase. The trial court correctly determined that Shonberg "did not … make deductions from his income figures for service-related income" and that "[a]djustments must be made to eliminate

[8] In opposition to this court's decision in Willow Valley, Shonberg testified that he disagrees that business value should be excluded from the income considered for valuation purposes. R.R. at 641a.

business value from net income." R.R. at 359a. The trial court properly followed this court's precedent set in Willow Valley.

When the trial court finds the experts for adverse parties to be competent and credible, it may determine that the FMV of the property lies somewhere between the values reached by the competing experts. Jackson. In Westinghouse Electric Corp. v. Board of Property Assessment, Appeals and Review of Allegheny County, 539 Pa. 453, 464, 652 A.2d 1306, 1312 (1995), our Supreme Court determined that:

> Here, the trial court considered the testimony of the various experts, and found all of them competent and credible. Based on this determination, the trial court concluded that the fair market value of the property was somewhere between the values presented by the parties. Such a finding is appropriate when a trial court is presented with conflicting testimony by equally credible experts. (Citations omitted).

The trial court in the present controversy engaged in a thorough analysis of the record and reached a conclusion that was far more thoughtful than splitting the difference. The trial court determined that Shonberg needed to make deductions and that Weinstein's deductions were too great. Thus, the trial court adjusted the deductions to 25%. The trial court's decision was reasonable, appropriate, consistent with the evidence and entirely within its discretion.

Next, the Board contends that where no testimony is presented regarding values for years during the pendency of an assessment appeal, the trial court may not make a finding of implied market value. Specifically, the Board contends that during the hearing, no testimony regarding the valuation of the Property for the year 2008 was taken. However, despite this fact, the

supplemental order includes an implied market value of $29,127,215.00 for 2008. As 2008 was post-trial and post-testimony, there can be no finding of implied market value for the year 2008. Rather, the value for 2008 would be computed by applying the common level ratio to the trial court's finding of value for 2007.

In a tax assessment case, the trial court is required to make two determinations: (1) the FMV of the property at issue; and (2) the correct assessment ratio to be applied to that market value in order to calculate the assessed value. In re Assessment Appeal of Reese, 620 A.2d 605, 607 (Pa. Cmwlth. 1993).

The trial court's first order determined the FMV for the Property to be $29,127,215. The order did not provide further guidance regarding the years to which this number should be applied. The Village, thereafter, requested that the trial court indicate that its valuation would apply to the years 2006 and beyond, as without such determination, it would be assumed that the valuation would only apply to the 2008 tax year, as the trial court's opinion was dated October 21, 2008. The trial court made this clarification in its order of January 30, 2009, as it specified assessed values, common level ratio, and implied market value for the years 2004 through and including 2008. Such order complies with Section 704 of The Fourth to Eighth Class County Assessment Law, Act of May 21, 1943, P.L. 571, as amended, 72 P.S. §5453.704 and is supported by the record.[9]

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[9] 72 P.S. §5453.704 reads as follows in pertinent part:

> (b) In any appeal of an assessment the court shall make the following determinations:
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> (1) The market value as of the date such appeal was filed before the board of assessment appeals. In the event subsequent years have been made a part of the appeal,

Footnote continued on next page…

The law requires that the trial court in a tax appeal fix the market value, not the assessed value for the property in question. The court fixes the market value and then applies the common level ratio in order to arrive at the assessed value. This is done for a date certain and "each subsequent tax year." Willow Valley. This is standard for a tax appeal and precisely what the trial court did in the present controversy.

"With respect to property assessment principles, it is generally acknowledged that once an evaluation has been established for a taxable property, that valuation cannot be changed unless said change is the result of a countywide reassessment." Radecke v. York County Board of Assessment Appeals, 798 A.2d 265, 267 (Pa. Cmwlth. 2002). Therefore, once a valuation has been set, it remains in place until lawfully changed. Thus, the trial court was within its discretion in determining the market value for the years 2006 through 2008.

> the court shall determine the respective market value for each such year.
>
> (2) The common level ratio which was applicable in the original appeal to the board. In the event subsequent years have been made a part of the appeal, the court shall determine the respective common level ratio for each such year published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year being appealed.
>
> (c) The court, after determining the market value of the property pursuant to subsection (b)(1), shall then apply the established predetermined ratio to such value unless the corresponding common level ratio determined pursuant to subsection (b)(2) varies by more than fifteen per centum (15%) from the established predetermined ratio, in which case the court shall apply the respective common level ratio to the corresponding market value of the property….

Finally, the Board contends that where the parties stipulate and all testimony concludes the value for tax years 2004 and 2005 would be the same as the 2006 appraised value, the trial court may not reach a conclusion of a lower value.

The Board states that the parties stipulated that the value for the tax years 2004 and 2005 would be the same as the 2006 tax year. This is incorrect. The parties stipulated that the appraised values for each appraiser would be the same for 2005 and 2004; that the 2004 value would be about the same as the 2005 value. The experts' opinions regarding valuation for 2004 and 2005, while similar, were not identical. At no time did counsel stipulate that the 2004 and 2005 valuations would be the same as 2006 and the record does not support such contention.

In the Board's brief to this court, within the summary of facts, the historic assessed values, set by the Board for the years 2004 ($23,708,954), 2005 ($25,621,488) and 2006 ($41,911,132) were listed. The Board set forth that the valuation numbers in 2004 and 2005 were intended to "reflect a reduction based on start up low occupancy," such that when the Property was assessed by the taxing authority for 2004 and 2005, it was appropriately reduced in order to compensate for the fact that occupancy levels had not yet stabilized. The assessed value figures for 2004 were $8,843,440 and for 2005 were $8,429,470. This original reduction by the Board was appropriate and in accordance with Section 203 of The Fourth to Eighth Class County Assessment Law, Act of May 21, 1943, P.L. 571, as amended, 72 P.S. §5453.203.[10] The Board raised the

[10] 72 P.S. §5453.203(b) reads as follows, in pertinent part:

Footnote continued on next page…

assessment in 2006 in response to the Property reaching stabilized occupancy and maintained the assessed value at $12,950,540 thereafter.

At trial, the Board did not seek to withdraw or avoid the application of its previous reduction of valuation for years 2004 and 2005. The trial court's original order determined the FMV for the Property to be $29,127,215. The trial court neglected to specifically indicate the timeframe to which this number should be applied. Thus, the Village requested a clarification. Specifically, the Village requested the trial court to specify that the valuation for the 2004 and 2005 tax years should be reduced in a manner consistent with the original assessment decision. The Village proposed a reduction proportional to the difference between the original assessment numbers in 2004 and 2005, as compared with the 2006 assessment number. Attached to the Village's request for clarification is a spread sheet which demonstrates the manner in which this adjustment was carried out.

The Village requested a reduction in the assessed value in 2004 to 68% of the trial court's total market value determination of $29,127,215. This

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> (b) New single and multiple dwellings constructed for residential purposes and improvements to existing unoccupied dwellings or improvements to existing structures for purposes of conversion to dwellings, shall not be valued or assessed for purposes of real property taxes until (1) occupied, (2) conveyed to a bona fide purchaser or, (3) thirty months from the first day of the month after which the building permit was issued or, if no building permit or other notification of improvement was required, then from the date construction commenced. The assessment of any multiple dwelling because of occupancy shall be upon such proportion which the value of the occupied portion bears to the value of the entire multiple dwelling.

percentage is derived by dividing the original assessment number of $8,843,440 by the County's 2006 assessment number for stabilized occupancy of $12,950,540 and multiplying it by the trial court's market value number. Applying the same process for 2005 yields a reduction to 65% of the trial court's market value number ($8,429,470 / $12,950,540 x $29,127,215). The resulting implied market value numbers are $19,889,885 for 2004 and $18,958,819 for 2005. The trial court accepted this analysis and made the clarification to its order.

Such clarification was within the discretion of the trial court, was consistent with the law and the evidence and does not constitute an error of law.

Accordingly, we affirm.

JIM FLAHERTY, Senior Judge

President Judge Leadbetter concurs in result only.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

The Village at Penn State Retirement Community	:	
v.	:	No. 2190 C.D. 2008
Centre County Board of Assessment Appeals,	:	No. 209 C.D. 2009

O R D E R

AND NOW, this 10th day of March, 2010, the order of the Court of Common Pleas of Centre County, in the above-captioned matter, is affirmed.

JIM FLAHERTY, Senior Judge