

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petitions: 55-005-09-1-4-00002
55-005-10-1-4-00005
Petitioner: Meadow Lake of Mooresville, LLC
Respondent: Morgan County Assessor
Parcel: 55-02-30-321-004.000-005
Assessment Years: 2009 and 2010

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

Procedural History

1. The Petitioner initiated an assessment appeal for 2009 on May 10, 2010, and for 2010 on April 21, 2011.
2. The Property Tax Assessment Board of Appeals (PTABOA) mailed notice of its decision, Form 115, for the 2009 petition on November 10, 2010, and for the 2010 petition on November 15, 2011.
3. The Petitioner appealed to the Board by filing a Form 131 Petition for Review for the 2009 assessment on December 6, 2010, and subsequently filing for the 2010 assessment on November 28, 2011. The Petitioner elected to have both cases heard according to small claims procedures. The Respondent did not exercise its option to remove his case from the small claims procedures.
4. Administrative Law Judge Paul Stultz held the Board's administrative hearing on July 24, 2012. He did not inspect the property.
5. Paul Kropp represented the Petitioner. County Assessor Brenda Brittain appeared *pro se*. Appraiser Phillip Johns, Assessor Brittain, and Mr. Kropp were sworn as witnesses. Reva Brummett also was sworn, but she did not testify.

Facts

6. The subject property is a nursing home and assisted living facility located at 200 Meadow Lake Drive, Mooresville.

7. The PTABOA determined the 2009 assessed value is \$3,461,200 for land and \$6,349,200 for improvements (total \$9,810,400).
8. The PTABOA determined the 2010 assessed value is \$3,461,200 for land and \$9,088,800 for improvements (total \$12,550,000).
9. The Petitioner contends the total assessment should be \$7,258,700 for each year.

Record

10. The official record contains the following:

- a. The Form 131 Petitions,
- b. A digital recording of the hearing,
- c. Exhibits for Petition 55-005-09-1-4-00002

Petitioner Ex. 1 – Sale disclosure form dated June 3, 2005, for \$675,000,
Petitioner Ex. 2 – Sale disclosure form dated August 11, 2006, for \$650,000,
Petitioner Ex. 3 – Sale disclosure form dated April 13, 2007, for \$825,000,
Petitioner Ex. 4 – Final Determination for 2008 for the subject property,
Petitioner Ex. 5 – Statement and justification of prima facie case, calculation of construction cost, and statement of the Petitioner's position,
Petitioner Ex. 6 – Final Determination for *Grandview Health & Rehabilitation v. Morgan County Assessor*, Pet. No. 55-021-10-2-8-00001 (Ind. Bd. Tax Review January 23, 2012),
Petitioner Ex. 7 – Final Determination for *Roop v. Monroe County Assessor*, Pet. No. 53-017-08-1-5-00001 (Ind. Bd. Tax Rev. June 21, 2010),
Petitioner Ex. 8 – Subject property record card (printed November 4, 2009),
Petitioner Ex. 9 – Construction cost document for Phase 1 and 2,
Petitioner Ex. 9b – Construction cost document for addition,
Petitioner Ex. 10 – Form 115,
Petitioner Ex. 11 – Department of Local Government Finance document, “2012 Residential and Commercial Cost Tables Overview of Methodology,”
Petitioner Ex. 12 – Information from Wikipedia about HCR Manor Care,
Petitioner Ex. 13 – Property record card and “History of HCR ManorCare”,
Respondent Ex. 1 – Pages 1-7 Real Property Assessment Manual,
Respondent Ex. 2 – RSMeans construction cost estimates for Indianapolis area,
Respondent Ex. 3 – RSMeans construction cost estimates for Bloomington area,
Respondent Ex. 4 – Appraisal for the subject property,
Board Exhibit A – Form 131 Petition,
Board Exhibit B – Notices of Hearing,
Board Exhibit C – Hearing Sign-In Sheet,

d. Exhibits for Petition 55-005-10-1-4-00005

- Petitioner Ex. 1 – Sale disclosure form dated June 3, 2005, for \$675,000,
- Petitioner Ex. 2 – Sale disclosure form dated August 11, 2006, for \$650,000,
- Petitioner Ex. 3 – Sale disclosure form dated April 13, 2007, for \$825,000,
- Petitioner Ex. 4 – Final Determination for 2008 for the subject property,
- Petitioner Ex. 5 – Statement and justification of prima facie case, calculation of construction cost, and statement of the Petitioner's position,
- Petitioner Ex. 6 – Final Determination for *Grandview Health & Rehabilitation v. Morgan County Assessor*, Pet. No. 55-021-10-2-8-00001 (Ind. Bd. Tax Review January 23, 2012),
- Petitioner Ex. 7 – Final Determination for *Roop v. Monroe County Assessor*, Pet. No. 53-017-08-1-5-00001 (Ind. Bd. Tax Rev. June 21, 2010),
- Petitioner Ex. 8 – Subject property record card (printed September 22, 2011),
- Petitioner Ex. 9 – Construction cost document for Phase 1 and 2,
- Petitioner Ex. 9b – Construction cost document for addition,
- Petitioner Ex. 10 – Form 115,
- Petitioner Ex. 11 – Department of Local Government Finance document, “2012 Residential and Commercial Cost Tables Overview of Methodology,”
- Respondent Ex. 1 – Pages 1-7 Real Property Assessment Manual,
- Respondent Ex. 2 – RSMean construction cost estimates for Indianapolis area,
- Respondent Ex. 3 – RSMean construction cost estimates for Bloomington area,
- Respondent Ex. 4 – Appraisal for the subject property,
- Respondent Ex. 5 – Oral appraisal report as of March 1, 2010,
- Board Exhibit A – Form 131 Petition,
- Board Exhibit B – Notices of Hearing,
- Board Exhibit C – Hearing Sign-In Sheet,

e. These Findings and Conclusions.

Contentions

11. Summary of the Petitioner’s case:

- a. The Respondent set the assessment at \$9,810,400 for 2008 and 2009. The 2010 assessor’s assessment for 2010 is \$9,812,200. This is less than 1% change from the 2009 assessment. There is no need to increase the 2008 assessment for 2009 and 2010 due to trending. *Kropp testimony, Pet’r Ex. 8.*
- b. The Board set the assessment for this property at \$6,041,800 in its Final Determination for 2008. That value was based on construction costs for the subject property. The actual purchase price for this land was used to determine the land value. (Three sales disclosure forms for the parcel, purchased by the Petitioner as vacant land, establish the Petitioner’s cost of land.) *Kropp testimony; Pet’r Ex. 1-4.*

- c. The assessment for 2009 and 2010 should be \$7,258,700. That number consists of the \$6,041,800 from 2008 plus \$1,216,900 for an addition built in the last half of 2007 and early 2008. The cost evidence for the addition was mistakenly omitted from the evidence submitted for 2008. When he testified for the 2008 appeal, Mr. Kropp was under the impression that phase 1 and phase 2 were the entire building. Mr. Kropp used the numbers the property owner gave him. But subsequently he got the information about the additional construction phase that took place in the second half of 2007 through early 2008. *Kropp testimony; Pet'r Exs. 5, 9, 9B.*¹
- d. The \$1,216,900 total construction cost of the addition was determined by using actual costs and adding 15% for supervision, entrepreneurial profit and construction loan fees. *Kropp testimony; Pet'r Exs. 5, 9b.*
- e. In its final determination for *Roop v. Monroe County Assessor*, the Board concluded construction cost for the subject property is good evidence. *Kropp testimony; Pet'r Ex. 7.*
- f. The Department of Local Government Finance overview discusses reducing national cost tables used for commercial and industrial properties by 30% to adjust for local values. *Kropp testimony; Pet'r Ex. 11.*
- g. The property identified in Mr. John's appraisal as comparable sale 5 (the Martinsville sale in Resp't Ex. 4 at 21) was the subject of an appeal to the Board in *Grandview Health & Rehabilitation v. Morgan County Assessor*. This sale deserves significant weight. The \$30,488 price per bed plus the cost of the addition approximates the assessed value sought by the Petitioner. *Kropp testimony; Pet'r Ex. 6.*
- h. The property identified in Mr. Johns' appraisal as comparable sale 2 (Resp't Ex. 4 at 21) was not an arm's-length transaction. Sale 2 involved a company that was taken private. It was not an original owner selling to another owner. This transaction involved numerous nursing homes and the purported purchase price was an allocation of the total price. A Wikipedia article says the buyer, HCR ManorCare Properties LLC, and the seller, ManorCare Health Services, Inc., are related. *Kropp testimony; Pet'r Ex. 12, 13.*
- i. The property identified as sale 3 in Mr. Johns' appraisal (referring to Resp't Ex. 4 at 21) was not a sale. It was a name change due to a financing arrangement. *Kropp testimony.*
- j. Mr. Johns' appraisal should have used the income approach. *Kropp testimony.*

¹ Some of the testimony and some of the exhibits are confusing because many times Mr. Kropp refers to himself as the Petitioner. In summarizing this case the Board has attempted to clarify this ambiguity.

12. Summary of the Respondent's case:

- a. The 2002 Real Property Assessment Manual states, "each taxpayer does not have the right to 'absolute and precise exactitude as to the uniformity and equality of each individual assessment . . . nor does it [the Property Taxation Clause of the Constitution of Indiana] mandate the consideration of independent property wealth evidence in individual assessments or tax appeals." It goes on to say, "Appeals of assessments must operate within the rules and utilize data in the same manner as provided in this manual. In general, this requires that challenges to assessments be proven with aggregate data, rather than individual evidence of property wealth." *Brittain testimony; Resp't Ex. 1 at 5.*
- b. During the 2008 appeal, Mr. Kropp presented evidence of the construction costs for this property. At that time the Respondent had no substantial evidence to rebut his information. But after that hearing and with further investigation, it was discovered that Mr. Kropp failed to include cost information for the 17,943 square foot addition to the nursing home. *Brittain testimony.*
- c. In addition, the Petitioner's purported building costs are very low for what is typical in the area. The Respondent examined general market costs for nursing homes in the Bloomington and Indianapolis areas. According to MS Means cost models, the typical costs per square foot are from \$120.83 (Bloomington area) to \$124.14 (Indianapolis area). There is a big difference between those costs and the ones the Petitioner claims are actual costs—\$48.02 for phase 1, \$47.19 for phase 2, and \$58.67 for the addition. *Brittain testimony; Resp't Exs. 2, 3.*
- d. The Respondent decided that an appraisal was needed and hired Phillip Johns at The Value Company, Inc. to appraise the subject property. *Brittain testimony.*
- e. Mr. Johns is a certified general appraiser. He certified that he has no interest in the property and did not have a contingent fee. He also certified that his "analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice." *Resp't Ex. 4 at 11.*
- f. The subject property is a skilled nursing and assisted living facility built in multiple stages between 2005 and 2007. It contains 101,052 square feet of gross building area. It has 207 total beds. Of those, 137 beds are comprehensive care (skilled nursing) and 70 beds are assisted living. The site has 6.219 acres of land. *Johns testimony; Resp't Ex. 4 at 18.*
- g. Mr. Johns did not inspect the interior of the subject property beyond the lobby. *Johns testimony; Resp't Ex. 4 at 4, 18.*

- h. Mr. Johns did not have actual income and expense information to develop an income approach to value. *Johns testimony*. “**Typically, for income producing properties such as skilled nursing facilities or apartment communities, the Income Capitalization Approach is the most meaningful approach when income, expense, and capitalization rate data are readily available.**” *Resp’t Ex. 4 at 19 (bold in original)*. “Due to lack of available income/expense data for the subject property, it was not possible to include the Income Capitalization Approach in this appraisal.” *Resp’t Ex. 4 at 27*. In this case the appraisal is based on analysis of the sales comparison approach and the cost approach. *Id. at 27-28*.
- i. For his sales comparison approach, Mr. Johns considered 5 comparables for the 2009 valuation and 5 comparables for the 2010 valuation. Three comparables were the same for both years, but 2 were different—dropping older sales and adding more recent ones. They are from various locations around Indiana. His appraisals provide specific points of comparison between the subject property and each comparable. He explains why some of the comparables were superior to the subject property and some were inferior. He also explained that for this type of property comparing price per bed is the most meaningful way to do it. For 2009 the comparable sales ranged from \$30,488 per bed to \$95,567 per bed and indicated a value of \$60,000 per bed for the subject property. For 2010 the comparable sales had the same range, but indicated \$62,000 per bed for the subject property. *Johns testimony; Resp’t Ex. 4 at 21-22, Resp’t Ex. 5 at 4-5*.
- j. For his cost approach, Mr. Johns considered 5 sales of vacant land around Mooresville to determine the value of the land. *Resp’t Ex. 4 at 24, Resp’t Ex. 5 at 7*. He noted that the lack of recent vacant land sales “indicates continued weakness in the land market” for 2010. *Resp’t Ex. 5 at 4*. He estimated land value at \$975,000 for 2009 and \$962,000 for 2010. *Resp’t Ex. 4 at 25, Resp’t Ex. 5 at 8*. He used the Marshall Valuation Service Manual to estimate cost for the improvements as if they were new (\$116.79 per square foot for 2009 and \$119.20 per square foot for 2010). He added 5% for “entrepreneurial incentive” and then deducted for depreciation (5% for 2009 and 9% for 2010). Detailed cost calculations are contained in the appraisals. *Resp’t Ex. 4 at 26, Resp’t Ex. 5 at 9*.
- k. The 2009 value based on the sales comparison approach was \$12,420,000 and \$12,844,000 based on the cost approach. Mr. Johns reconciled those amounts to \$12,700,000 as of March 1, 2009. Tended back to January 2008, the reconciled value was \$12,550,000. *Johns testimony; Resp’t Ex. 4 at 27-28*.
- l. Mr. Johns presented an oral appraisal report for the 2010 appeal. Sections of this oral appraisal that differed from his 2009 appraisal were reduced to writing. The value based on the sales approach was \$12,834,000. The value based on the cost approach was \$12,568,000. His reconciled value as of March 1, 2010, was \$12,650,000. *Johns testimony; Resp’t Ex. 5 at 10-11*.

Burden of Proof

13. Generally, a taxpayer seeking review of an assessment has the burden of proving that the assessment is wrong and what a correct valuation should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). Nevertheless, the Indiana General Assembly enacted a statute that in some cases shifts the burden of proof:

This section applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal increased the assessed value of the assessed property by more than five percent (5%) over the assessed value *determined by the county assessor ... for the immediately preceding assessment date for the same property*. The county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.

I.C. § 6-1.1-15-17.2 (emphasis added).

14. At the beginning of the hearing the parties agreed that the Respondent has the burden of proof for 2009 and for 2010. Evidence introduced during the proceedings does not support their agreement for the 2009 appeal.
15. According to the Petitioner, the assessor's assessment was \$9,810,400 for both 2008 and 2009. The 2009 PTABOA determination is also \$9,810,400. The disputed assessed value for 2009 did not increase more than 5% over the assessor's assessment for 2008. Therefore, the Petitioner has the burden of proof for the 2009 appeal.
16. The 2010 PTABOA assessment is \$12,550,000. The increase was far more than 5%. Therefore, the Respondent has the burden of proof for the 2010 appeal.
17. Both parties got past those initial hurdles. Ultimately, however, this final determination does not depend on who has the burden of proof or making a prima facie case. It depends on who presented the most persuasive evidence of value (i.e., the weight of the evidence).

Analysis

18. Real property is assessed based on its "true tax value," which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." Ind. Code § 6-1.1-31-6(c); 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). There are three generally accepted techniques to calculate market value-in-use: the cost approach, the sales comparison approach, and the income approach. The primary method for assessing officials to determine market value-in-use is the cost approach. *Id.* at 3.

Indiana promulgated Guidelines that explain the application of the cost approach. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 - VERSION A (incorporated by reference at 50 IAC 2.3-1-2). The value established by use of the Guidelines is presumed to be accurate, but it is merely a starting point. A taxpayer is permitted to offer evidence relevant to market value-in-use to rebut that presumption. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. MANUAL at 5.

19. To be relevant, the record must somehow establish how such evidence relates to market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2009 assessment, the valuation date was January 1, 2008, and for the 2010 assessment the valuation date was March 1, 2010. 50 IAC 21-3-3 (2009).
20. "The valuation of property is the formulation of an opinion; it is not an exact science. When there are competing opinions as to how a property should be valued, the Indiana Board must determine which opinion is more probative. That determination is, essentially, the result of how effectively each party has persuaded the Indiana Board that its value opinion is more credible and reliable than that of the other." *Stinson v. Trimas Fasteners, Inc.*, 923 N.E.2d 496, 502 (Ind. Tax Ct. 2010).
21. Both sides offered evidence and arguments that are relevant and probative, but what they offered leads to different conclusions about the value of the subject property. Therefore, the credibility and reliability of the cost approach offered by the Petitioner must be weighed against the credibility and reliability of the appraisals offered by the Respondent. This process involves a great number of considerations. There are no general rules that one type of evidence is always more credible than another. The Board has established no general rules of priority in past cases, nor will it do so. Specifically, the language the Petitioner focused on in *Roop v. Monroe County Assessor* does not mean actual construction costs for the subject property necessarily outweigh the credibility and reliability of other types of evidence.
22. The Petitioner obtained a favorable result in a prior appeal that reduced the 2008 assessment for the subject property based on construction cost evidence that is similar to the evidence the Petitioner submitted for 2009 and 2010. The 2008 determination, however, merely established that the cost evidence was enough to make a prima facie case.² In the 2008 case the Respondent did nothing to rebut or impeach the Petitioner's cost evidence. The prior determination has very little (if any) impact here because each tax year stands alone. *See Thousand Trails Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 1072, 1077 (Ind. Tax Ct. 2001). And the Respondent presented a very different case for

² Of course cost evidence is supposed to be accurate and complete. Now it has been disclosed that the final 2008 assessed value was based on cost numbers that improperly omitted a large addition to the nursing home. This situation illustrates the importance of the parties properly presenting their cases to the Board and the consequences when they fail to do so.

2009 and 2010. For example, the Respondent offered evidence that the Petitioner's purported actual costs are much lower than typical building costs, the Respondent pointed out that for 2008 Mr. Kropp failed to include a 17,943 square foot addition to the nursing home, and the Respondent introduced appraisals for the subject property together with testimony from Appraiser Johns. Obviously, weighing the evidence where there is substantial evidence on both sides is much different from a case where only one side submitted such evidence.

23. In spite of the Respondent's failure to walk the Board through the analysis, several factors weigh against the credibility of the cost valuation presented by the Petitioner.
- Mr. Kropp is a certified tax representative. The record does not disclose how he is being compensated. In the absence of such disclosure, it is presumed that a contingent fee arrangement exists between the taxpayer and Mr. Kropp. 52 IAC 1-2-4(c). Therefore, he has a financial stake in the outcome.
 - Nothing in the record indicates that Mr. Kropp had direct, firsthand knowledge about the Petitioner's land acquisitions, the construction of the subject property or the associated costs.
 - It is not clear who prepared the Petitioner's cost figures or how they were obtained, but it is clear that Mr. Kropp simply presented cost figures that somebody else provided to him. (Mr. Kropp explained that the cost figures he originally was given omitted part of the building. He acknowledged the error and provided figures that purportedly have been corrected.)³
 - Nothing in the record indicates that Mr. Kropp is a certified appraiser.
 - Nothing in the record indicates the Petitioner's cost approach methodology was prepared according to generally accepted appraisal principles or satisfies USPAP requirements.
24. Mr. Johns' testimony and his appraisals are more credible for several reasons.
- Mr. Johns is an Indiana Certified General Appraiser.
 - Although he was paid for doing these appraisals, it was not on a contingent fee basis.
 - His analyses, opinions, and conclusions were developed, and his reports were prepared, in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).
 - His value opinion was developed through the cost approach and the comparable sales approach. He explained why he did not develop the income approach, even though for this type of property it is typically the most meaningful.

³ The Respondent offered evidence related to estimated costs per square foot to build a nursing home with precast concrete panels/bearing walls in Indianapolis and Bloomington. Those costs are more than double the Petitioner's purported actual cost per square foot. Respondent's Exhibits 2 and 3, however, note that "[s]cope differences and market conditions can cause costs to vary significantly." Because the Respondent failed to develop a basis for a meaningful comparison of the subject property and the building models assumed in those estimates, the RSMean cost figures are not probative evidence. Specifically, Respondent's Exhibits 2 and 3 are *not* part of the reason we find the Petitioner's cost evidence to be less credible.

25. A market value-in-use appraisal prepared according to USPAP is often the best indication of a property's true tax value. See *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n.1 (Ind. Tax Ct. 2005). We reach that same conclusion here, but not without some concerns.
26. Mr. Johns disclosed the fact that he did not inspect the interior of the subject property beyond the lobby.⁴ That situation, of course, creates the possibility that some of his assumptions concerning interior features might be incorrect. Nevertheless, the Petitioner did not explore that possibility on cross-examination and did not offer any probative evidence to the contrary. Therefore, in this case the lack of interior inspection, while troubling, was not shown to be a major weakness or flaw in Mr. Johns' opinion about the value of the subject property.
27. Appraisers commonly use three valuation approaches: cost, comparable sales, and income capitalization. In this particular instance, Mr. Johns only developed values based on the cost approach and the comparable sales approach. Although Mr. Johns admitted that the income approach is typically the most meaningful approach for income producing properties such as skilled nursing facilities, he disclosed that he did not develop a value based on that approach in this instance. He explained that doing so was not possible "due to lack of available income/expense data for the subject property." The lack of income and expense data apparently stems from the fact that Mr. Johns was engaged by the Respondent, who did not have that kind of data for the subject property. Significantly, there is no indication in the record that the Respondent engaged in any kind of discovery to obtain that kind of information from the Petitioner.⁵ The circumstances surrounding the lack of income and expense data, however, are not the main point. Rather, the main point is that the appraisals did not develop a value based on the approach that is typically the most meaningful for this kind of property. This void diminishes the credibility and reliability of the appraisals, but it does not entirely destroy their probative value. Even without the income approach, the appraisals have some weight and credibility derived from the cost approach and the sales comparison approach.
28. The Petitioner also attacked some of the comparable sales used by Mr. Johns. According to Mr. Kropp, the transaction identified as comparable sale 2 was not an arm's-length transaction. Relying on an article from Wikipedia, Mr. Kropp testified that the buyer,

⁴ He implied the lack of inspection was because he was engaged by the assessor and not the owner, but this distinction does nothing to alleviate most of the potential problems attached to not inspecting the interior of the subject property.

⁵ In making this statement we recognize that these cases were allowed to proceed according to the Board's small claims rules. Even though the property has a value well in excess of the \$1,000,000 limit for small claims, the Petitioner elected small claims procedures and the Respondent did not object. 52 IAC 3-1-2. Similarly, the Respondent did not exercise the option to get out of small claims procedures. 52 IAC 3-1-3. This distinction is important because under small claims procedures, discovery is not available. 52 IAC 3-1-5(c). The Respondent would have needed to exercise the option to get out of small claims procedures before attempting to obtain the kind of data Mr. Johns needed through discovery. The record does not indicate the Respondent took either step. Therefore, the Respondent has at least some responsibility for the lack of data that Mr. Johns admitted he would like to have used for his appraisals of the subject property.

HCR ManorCare Properties LLC, and the seller, ManorCare Health Services, Inc., are related. Mr Kropp also testified that this transaction involved numerous nursing homes and the purported purchase price was an allocation of the total price. If there was any basis for his testimony beyond the Wikipedia article, Mr. Kropp did not explain it. Nevertheless, there was no hearsay objection to this evidence and the Respondent did nothing to rebut or impeach it. Therefore, it cannot be entirely disregarded, but the Petitioner failed to establish that the point has anything more than a minimal impact on the credibility of the appraisals. Similarly, Mr. Kropp testified that comparable sale 3 was not really a sale, but just involved a name change due to a financing arrangement. This testimony was entirely conclusory and has no probative value. It did not make the appraisals' conclusions about the value of the subject property any less credible.

29. Evidence frequently is not perfect. Even considering these shortcomings, the appraisals and Mr. Johns' value opinions are ultimately the most reliable and credible evidence presented for the 2009 and 2010 assessments.
30. Finally, the appraised values are related to the required valuation dates. The 2009 appraised value was related back to January 2008 and the appraised value as of March 1, 2010, which coincides with the required valuation date for that year.

Conclusion

31. The weight of the evidence does not support any reduction for either year. The 2009 and 2010 appraisals might even support values exceeding the current assessments, but the Respondent just made a brief reference to that point at the very end of the hearing. Under such circumstances we will not order either assessment to be increased.

Final Determination

In accordance with the above findings and conclusions, the 2009 and the 2010 assessments will not be changed.

ISSUED: November 16, 2012

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>