SOJOURNER PLACE at PRESTON, LLC	:	
PETITIONER	:	IN THE
vs.	:	MARYLAND TAX COURT
SUPERVISOR OF ASSESSMENTS	:	APPEAL No. 23-RP-BA-0620
RESPONDENT	:	

MEMORANDUM AND ORDER

The Petitioner has come to this Court seeking a reduction of the property tax assessment for the year 2023. The Petitioner is the owner of a 70-unit apartment building located at 1202 E. Preston Street, Baltimore, Maryland. The building consists of 35 units for formerly homeless families and 35 units for low-income families. Construction was completed on the building in 2022 and the date of first tenancy was November 12, 2022. The subject property was developed under Section 42 of the Internal Revenue Code and is a low-income housing project.

The Code of Maryland requires the Respondent to consider an income method in valuing income producing commercial real property. MD. CODE ANN., TAX-GEN. § 8-105(a)(1)(ii) (2024). There is no dispute that the subject property is an income producing commercial real property even though as of the date of finality (January 1, 2023) it had produced little income, and its income and expenses were based on projections. Furthermore, section 8-105 (a)(3) states that in determining the value of commercial income producing real property, the Respondent shall consider the impact of applicable rent restrictions affordability requirements, or any other related restrictions required by § 42 of the Internal Revenue Code and any other federal, State, or local programs, and it may not consider income tax credits under § 42 of the Internal Revenue Code as income attributable to the real property. *Id.* at § 8-105(a)(3). Respondent's Exhibit 1 summarizes the requirement of section 8-105 as follows:

> That means all property developed from Section 42 of the Internal Revenue Code shall be valued based upon the income approach, even when new. Rent projections, and the controlling affordability standards, are established before the project is approved and the credits awarded. A budgetary operating statement will also have been prepared and show be available from the developer. It is essential that the rent structure and operating projections be considered when the property is being first assessed. (R-1 at 11).

There is no disagreement between the parties as to the proper method of valuing the subject property. The income approach is required by law and the only two variables are the capitalization rate and the net operating income of the subject property. The essential formula to value the subject property is to take the Net Operating Income ("NOI") and divide it by the Capitalization Rate: Net Operating Income ("NOI") / Capitalization rate. The NOI can be explained as the difference between the Effective Gross Income and expenses. The Respondent also showed a "Pro-Forma Valuation" of the subject property in which a capitalization rate of 10.36% is used. (R-1 at 6). The Petitioner does not dispute the use of a 10.36% capitalization rate to determine the value of the subject property.

The point of contention between the parties is the NOI, specifically the expense portion of the equation. The Petitioner asserts that an annual $210,000 projected expense for resident services for tenants exiting homelessness is a valid and appropriate expense that must be included in the calculation of net operating income. The Petitioner presented evidence of a Maryland Qualified Allocation Plan, which outlined the requirements of the Maryland Department of Housing and Community Development for the allocation of low-income housing tax credits and included a requirement for the project to provide a Supportive Services Plan as part of the permanent supportive housing criteria. See P-1. To meet said requirement, the Petitioner entered into a Memorandum of Understanding with Health Care for the Homeless, Inc. among others, defining the services to be provided and funding. See P-2. The Petitioner testified that individuals living in the 35 units leased to formerly homeless families will receive these case management services.

It is the Respondent's position that it valued the subject property in accordance with the appropriate laws, policies, and procedures. It also pointed out that that the case management expense, project to be $210,000 in 2023, is funded by a grant and not a loan.

After consideration of the evidence presented, the Court finds that the support services are an appropriate expense of the project. Said services are required as part of the Maryland Qualified Allocation Plan and the Community Development Administration Regulatory Agreement. See P-4. The Court finds no evidence that the support services expense should be disallowed or treated differently because of its funding source.

Because the project is new, projections are used to calculate the NOI. Rental income, however, was received in the month of December 2022, and the Respondent was able to calculate an annual effective gross income of $859,880. The Court finds this calculation more reliable than complete projections because it is based on an actual number, albeit only one month. The Court finds the projected expenses presented by the Petitioner in the amount of $740,373 to be persuasive. See P-3. The Court calculates the NOI as $859,880 – $740,373 = $119,507, and thus the value of the subject property on the date of finality as follows:

$119,507 NOI / 10.36% CAP Rate = $1,153,542.

The Court concludes that the Petitioner met the burden of proof to modify the assessed value of the property. Accordingly, it is this 11th day of March 2024, by the Maryland Tax Court **ORDERED** that the assessment appealed in the above-captioned case be and hereby is **REVERSED** and the full cash value shall be set at **$1,153,542.**

CC: Daniel McCarthy
Jeffrey Comen, Esq.
Julie Greene-Crist, Administrator

CERTIFIED TRUE COPY
TEST: Andrew Berg, Clerk

NOTICE: You have the right of appeal from the above Order to the Circuit Court of any County or Baltimore City, wherein the property or subject of the assessment may be situated. The Petition for Judicial Review **MUST** be filed in the proper Court within thirty (30) days from the date of the above Order of the Maryland Tax Court. Please refer to Rule 7-200 et seq. of the Maryland Rules of Court, which can be found in most public libraries.