

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SIERRA GROUP RP, D/B/A REGENT PARK APARTMENTS,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Norman H. Wright Holme Roberts & Owen</p> <p>Address: 1700 Lincoln Street, Suite 4100 Denver, Colorado 80203-4124</p> <p>Phone Number: (303)866-0696</p> <p>E-mail: wrightn@hro.com</p> <p>Attorney Reg. No.: 030625</p>	<p>Docket Number: 39920</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 25, 2002, Karen E. Hart and Mark R. Linné presiding. Petitioner was represented by Norman H. Wright, Esq. Respondent was represented by Laurie J. Heydman, Esq.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Property Address 1370 Columbine Street
(Denver County Schedule No. 05012-14-002-000)**

Petitioner is protesting the 2001 actual value of the subject property, a 46-unit apartment building located in the Congress Park neighborhood in central Denver. The subject consists of two buildings, with a total gross square footage of 35,517 and a net rentable area of 25,500 square feet. The building was built in 1958 and is in average condition.

ISSUES:

Petitioner:

Petitioner contends that the subject is overvalued, based on a consideration of an appraisal prepared for consideration by the Board.

Respondent:

Respondent contends that the valuation for the subject was arrived at in a reasonable and fair manner, based on comparable sales data. The value suggested by the Petitioner is unreasonably low.

FINDINGS OF FACT:

1. Petitioner’s witness, Mr. William M. James, MAI, CCIM, Colorado Certified General Appraiser, testified that he utilized and relied upon the Direct Sales Comparison Approach in the valuation of the subject property, and presented the following indications of value for the subject:

Market:	\$2,070,000.00
Cost:	Not Applicable
Income:	Not Applicable

2. The witness testified that he prepared a summary report, which is a summary narrative format, and abbreviated in nature.

3. The witness described the subject as a two-building apartment project with 25,500 rentable square feet and 35,517 gross square feet. The property is located in Congress Park. Congress Park was originally more single family oriented, but had a number of apartment buildings. In recent years, there has been a trend towards condominiumization in the area.

4. Mr. James identified the subject as being east of the Capital Hill neighborhood, with Cheesman Park being the dividing point. The apartment market in Capital Hill and Congress Park has been very strong in recent years, with increasing rents and property values. Much of this has been driven by the trend towards conversion into condominiums.

5. The witness testified that the building had experienced some renovation, but this work had not been completed during the applicable based period. The property has limited parking availability, with the ratio of parking to total units being .5 parking spaces per unit.

6. The witness testified that the majority of the sales he considered were located in the Congress Park neighborhood, with a few sales at the eastern edge of the Capital Hill neighborhood.

7. The witness described the subject as a center-hallway property with no amenities other than the limited parking available on-site.

8. The witness presented sales data including a total of 12 sales that were determined to be comparable. The sales were adjusted for differences in physical and locational characteristics. After adjustment, the sales ranged from \$61.16 to \$101.59 per square foot and \$34,748.00 to \$57,713.00 per unit. The weighted average value indication was \$80.79 per square foot and \$45,900.00 per unit. The standard deviation of the value indications was \$13.93 per square foot.

9. After consideration of the relevant sales data, the witness concluded a value for the subject of \$2,070,000.00.

10. Mr. James testified that no Capital Hill comparable sales were utilized in the final determination of value.

11. Under cross-examination, the witness testified that location, size and age were important characteristics in the selection of the comparable sales.

12. The witness described the differences in appraisal report formatting, but noted that the amount of research performed was the same regardless of the reporting option employed.

13. In response to questions from the Board, the witness testified that the Congress Park market requires sufficient parking in order to effect condominium conversion. This is in contradiction to the experience of the Capital Hill market, in which on-site parking is less relevant to potential buyers.

14. Petitioner's witness, Mr. Marshall Friedman, testified that he has owned the subject property for approximately 7 to 8 years. He purchased numerous properties in the Denver market place in the early 1990's, and the subject property was the only one that was not renovated. He indicated that he is intimately familiar with the rental market in the Congress Park and Capital Hill marketplace.

15. The witness testified that anything in a state of disrepair in the subject is replaced upon vacation of a unit by a tenant; no other changes are customarily made.

16. In describing the differences between Central Park Terrace Apartments and the subject, the witness testified that the location of the subject was less desirable than Central Park Terrace. In addition, Central Park Terrace has a separate parking lot across the street from the apartment building. There is also a park area between the two buildings. This property was purchased for \$1,800,000.00 on February 13, 1999.

17. In comparing differences between Capital Hill and Congress Park, the witness testified that Capital Hill has always had higher rent rates and lower vacancy. The income potential in Capital Hill is greater than in the Congress Park neighborhood. This is why his last two purchases have been made in Capital Hill.

18. The witness testified that he had toured the Silver Brook Apartments two years ago. The property had significant upgrades and was significantly superior in comparison to the subject.

19. Mr. Friedman testified that after talking to several realtors, he was discouraged from condominium conversion for the subject, due to the lack of parking, among other issues.

20. In response to cross-examination, the witness testified that he substantially renovated the 1160 Ogden Street property. He agreed that the \$1,800,000.00 purchase price was prior to the renovation.

21. The witness testified that he determined rental rates for his property by periodically traveling to Denver and walking the neighborhood and talking to rental agents. Additionally, his management company also conducts surveys to determine market rents.

22. Mr. Friedman testified that rental income for his project increased during 2000 due to a variety of factors, one of which was a change in management companies.

23. Recalled as a rebuttal witness, Respondent's witness Mr. William James, testified that he had not found a significant price response to price per unit in the range of the comparables he used in his appraisal. He further asserted that the importance of location was significant in the selection of comparables.

24. Petitioner is requesting a 2001 actual value of \$2,070,000.00 for the subject property.

25. Respondent's witness, Mr. George B. Pfeffer, Denver County Assessment Appraiser and a Colorado Certified General Appraiser, presented the following indicator of value:

Market:	\$2,466,000.00
Cost:	Not Applicable
Income:	Not Applicable

26. The witness testified that he relied on the direct sales comparison approach in valuing the property, as required by law.

27. Mr. Pfeffer testified that he selected comparables based on their location in the central Denver area, with similar size, location, age and condition. He looked for buildings with a similar number of units, and also looked for buildings that were not subsequently converted to condominiums. There was a general shortage of comparable sales, and for this reason, he examined sales in Capital Hill and Congress Park.

28. The witness testified that the subject contains a total of 46 units, and he selected comparable sales based on the number of units in the project. He felt that this was a critical factor of comparability, in that it relates to the potential type of purchaser. He felt that the size of

a given project was a more important factor than location, given the type of purchaser that would be interested in the subject versus other property types. He felt that investor type could influence the purchase price.

29. The witness presented five comparable sales, ranging after adjustment from \$43,458.00 to \$69,615.00 per unit. A value of \$53,600.00 per unit was utilized, resulting in a concluded value of \$2,466,000.00.

30. The witness testified with respect to the sales adjustment factors that he applied to the comparable sales. He also discussed the time adjustment factors that he applied, based on consideration of two different groups of data; the first considered all sales and was based on a group of 535 sales. The second group was based on 132 market sales of apartments ranging in size from 9 to 75 units.

31. The witness testified that the time adjustment factors applied by the Petitioner's expert witness, Mr. James, were somewhat lower at 6% per year, than the data from the time trending analysis would indicate. He utilized a rate of 1.9% per month, derived from the comparable sales data.

32. The witness testified with respect to the Avila Apartments, directly across the street from the subject. He specifically referenced the June 2000 sale.

33. The witness testified that conversion of apartments to condominiums is positive for the units that remain as apartments, given that the remaining units have a lessened supply, thereby increasing rents.

34. The witness testified that he did not use any comparable sales of less than 20 units in his analysis, due to his belief that such sales are not truly comparable.

35. The witness felt that the adjustment factors applied for Petitioner's comparable sales were too high based on his analysis of the market.

36. In response to cross-examination questioning, the witness testified that he performed an exterior inspection of each of the comparable sales. His description of each of the sales is based on his inspection, as well as other data, including the TD1000 form and assessment sales verification records. This information is also supplemented by a third-party vendor, COSTAR/Comps.

37. The witness testified that no income information was obtained on the sales, and admitted that such information could potentially be important in evaluating a property.

38. The witness testified that he made appropriate adjustments for parking availability, based on a comparison of parking area ratios. The adjustment factor was applied in the functional category. He further indicated that he had not conducted any formal study on the impact of parking for apartments in the Congress Park and Capital Hill markets.

39. The witness testified that he examined 10 to 12 sales prior to selecting the five sales that he included in the report. His criteria included excluding sales that were later converted to condominiums; as well as having a similar unit count.

40. The witness testified that the Petitioner had not correctly applied the gross rent multiplier in the comparative data analyzed in Petitioner's Exhibit M. He felt that the 10.56 GRM was somewhat excessive.

41. Respondent assigned an actual value of \$2,998,800.00 to the subject property for tax year 2001, but is recommending a reduction in value to \$2,466,000.00.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2001.

2. The Board found the testimony of both witnesses credible, but ultimately found the analysis and conclusions of Petitioner's witness more compelling.

3. The Board weighed the importance of physical and locational characteristics accorded by each appraisal expert in the selection of the comparable sales. Mr. James asserted that location was the most critical selection criteria, while Mr. Pfeffer felt that project size was more critical. While the Board agrees that both factors are important, ultimately, location is considered to be the most important consideration in this specific instance. The comparable sales presented by Mr. James appear to be the most relevant in the valuation of the subject. While the Board understands the position of the Respondent's witness that there is a differential between smaller and larger apartment buildings, the fact that no empirical evidence was presented weakens the reliance placed on this characteristic by Mr. Pfeffer.

4. While the Board notes Mr. Pfeffer's testimony that he weighed all comparables equally, the individual sales are \$55,591.00, \$49,766.00, \$69,615.00, \$49,768.00, and \$43,458.00. The mean was clearly influenced by sale #3 at the upper-end of the range. Without this sale, the mean would have been significantly lower. Without the inclusion of sale #3, the value conclusion on a per unit basis would likely not have provided a basis for a conclusion of \$53,600.00. Mr. James' conclusion of \$48,000.00 per unit is in reasonable proximity to the data presented by the Respondent, albeit at the lower end of this range.

5. While the Board applauds the Respondent's willingness to adjust the value based on the information presented on net rentable area, the fact that the valuation has been reduced does not diminish the responsibility of the Respondent to appropriately value the subject

6. The Board concluded that the 2001 actual value of the subject property should be reduced to \$2,300,000.00, with \$2,114,000.00 allocated to improvements and \$186,000.00 allocated to land.

ORDER:

Respondent is ordered to reduce the 2001 actual value of the subject property to \$2,300,000.00, with \$2,114,000.00 allocated to land and \$186,000.00 allocated to improvements.

The Denver County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 21th day of May, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Mark R. Linné

Mark R. Linné

This decision was put on the record

MAY 23 2002

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

Penny S. Bunnell
Penny S. Bunnell



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<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Norman H. Wright Holme Roberts & Owen</p> <p>Address: 1700 Lincoln Street, Suite 4100 Denver, Colorado 80203-4124</p> <p>Phone Number: (303) 866-0696</p> <p>E-mail: wrightn@hro.com</p> <p>Attorney Reg. No.: 030625</p>	<p>Docket Number: 39920</p>
<p>AMENDMENT TO ORDER ON MOTION FOR CLARIFICATION</p>	

THE BOARD OF ASSESSMENT APPEALS hereby amends page 7 under ORDER of its May 24, 2001 Order in the above-captioned appeal to reflect that the 2001 actual value of subject property should be:

Land	\$ 186,000.00
Improvements	\$2,114,000.00
Total	\$2,300,000.00

In all other respects, the May 24, 2001 order shall remain in full force and effect.

DATED/MAILED this 5th day of June, 2002.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Mark R. Linné
Mark R. Linné

This amendment was put on the record

JUN 0 4 2002

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

Penny S Bunnell
Penny S Bunnell

