

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>SETH TIM SOGGIN, DBA KINGSTON HOUSE, LLC.,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Seth Tim Soggin Address: 5041 West Fair Avenue Littleton, Colorado 80123 Phone Number: (303) 734-0821 E-mail: Attorney Reg. No.:</p>	<p><b>Docket Number: 39988</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 14, 2002, Karen E. Hart and Steffen A. Brown presiding. Petitioner appeared pro se. Respondent was represented by Maria Kayser, Esq.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1300 Monroe Street known as  
Denver County Schedule No. 05011-17-012-000**

Petitioner is protesting the 2001 actual value of the subject property, a five-story apartment building consisting of forty-three units with 30,145 square feet of rentable area, located on the corner of 13<sup>th</sup> Avenue and Monroe Street.

## **ISSUES:**

### **Petitioner:**

Petitioner contends that the subject property is overvalued and the Respondent grossly overstated the value according to the income approach.

### **Respondent:**

Respondent contends that the subject property was properly valued using the market approach. The income approach cannot be used to value residential property, such as the subject, for property tax purposes.

## **FINDINGS OF FACT:**

1. Petitioner, Mr. Seth Tim Soggin, presented the appeal on his own behalf.
2. Based on the market approach, Petitioner presented an indicated value of \$2,167,207.00 for the subject property.
3. Mr. Soggin presented three comparable sales ranging in sales price from \$953,844.00 to \$3,188,888.00, in size from 17,460 to 51,730 net rentable square feet, and in number of units from 36 to 78 units. No adjustments were made to the sales.
4. Mr. Soggin testified that his value by the market approach was an averaged price per square foot of the 2001 assessor's actual value of each of the comparable sales divided by the net apartment square footage, averaged to \$69.91 per square foot.
5. Mr. Soggin testified his sale at 1290 Washington Street was on a noisy street like the subject and his sale at 1201 Clarkson Street was a mid rise building like the subject.
6. Under cross-examination, Mr. Soggin testified he understands he cannot use the income approach but believes it is relevant. He testified that traffic is an issue and prohibits the use of the pool due to noise and exhaust fumes. Mr. Soggin testified vacancy was between 7% and 8%. He testified to using rentable square feet rather than the number of units and that he used averages to arrive at his values.
7. Petitioner is requesting a 2001 actual value of \$2,063,000.00 for the subject property.
8. Respondent's witness, Mr. Robert A. Anders, a Certified Residential Appraiser with the Denver County Assessor's Office, presented an indicated value of \$2,760,000.00 for the subject property, based on the market approach.
9. Respondent's witness presented five comparable sales ranging in sales price from \$1,881,236.00 to \$5,885,000.00 and in size from 21,517 to 51,730 net apartment square feet. After adjustments were made, the sales ranged from \$2,381,645.00 to \$6,891,335.00.

10. Mr. Anders testified he did an exterior inspection of the subject property and described it as a mid rise apartment building with 42 units and a net rentable area of 30,145 square feet. It includes a courtyard with swimming pool, laundry and storage areas and adjacent parking to include space for about 20 vehicles.

11. Mr. Anders testified that traffic noise was audible but not intrusive.

12. Mr. Anders described comparable sales, testifying that all sales were given a time adjustment based on a time trending analysis. Comparable sales 3 and 4 were probably purchased for condominium conversion and he gave little consideration to these sales. Comparable sale 5 is larger than the subject but was given weight since it was located behind the subject property. He placed most weight on sales 1 and 2 since they had the fewest adjustments.

13. Mr. Anders testified he used a Gross Rent Multiplier as a unit of comparison, which gave an indicated value for the subject property of \$2,241,765.00.

14. On questions from the Board, Mr. Anders admitted that all the comparable sales had interior halls. Comparable sale 1 was not serviced by an elevator; but it was a walkup with interior halls. He testified there was possibly some value difference between interior halls compared to the subject but he did not do a match pair analysis. He did not use the Petitioner's sales at 1201 Clarkson Street and 1290 Washington Street because they were not as comparable as the sales he used and they were further away and not similar in size. He testified comparable sales 1, 2 and 5 were within one half block of the subject and may not have had the same traffic noise, but he made no adjustment since there was no basis for one.

15. Respondent assigned an actual value of \$3,504,500.00 to the subject property for tax year 2001, but is recommending a value of \$2,760,000.00.

## **CONCLUSIONS:**

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

2. The Petitioner presented three comparable sales, but the Board could give little weight to them since there were no adjustments of physical characteristic differences as required in basic appraisal practice.

3. The Board was not persuaded by the Petitioner's market approach to value, which is based on an average price per square foot from the Respondent's actual assessed values.

4. The Board agrees with both Petitioner and Respondent that there is traffic noise; but could give little weight to Petitioner's concerns that it had a negative affect on value since vacancy ran about 7% to 8%, which does not seem to be extraordinary.

5. The Board could not accept Petitioner's income approach to value residential property since Colorado's State Constitution does not allow the income approach to be used for

ad valorem purposes.

6. The Board finds the Respondent's sales most compelling. The assigned value has taken into consideration factors affecting the overall valuation including time trending, quality, size, neighborhood differences and traffic consideration and is supported by market sales and historical data.

7. After careful consideration of all the evidence and testimony presented, the Board agrees with the Respondent's recommended 2001 actual value of \$2,760,000.00.

**ORDER:**

The Respondent is ordered to reduce the 2001 actual value of the subject property to \$2,760,000.00.

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 15<sup>th</sup> day of July, 2002.

**BOARD OF ASSESSMENT APPEALS**

Karen E Hart  
Karen E. Hart

Steffen A. Brown  
Steffen A. Brown

This decision was put on the record

JUL 15 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

