BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **LOWRY NORTH, LLC,** v. Respondent: **DENVER COUNTY BOARD OF EQUALIZATION.**	**Docket Nos.: 46024 & 47061**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 4, 2008, Karen E. Hart, Lyle D. Hansen, and MaryKay Kelley presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Michelle Bush, Esq. Petitioner is protesting the 2005 and 2006 actual values of the subject property.

The Board consolidated Docket Nos. 46024 and 47061.

PROPERTY DESCRIPTION:

Subject property is described as follows:

7901-8001 East 11th Avenue, Denver, Colorado
(Denver County Schedule No. 06042-36-007-000)

The subject property consists of five three-story apartment buildings totaling 192 units on 7.09 acres. Located in the redeveloped Lowry Air Force Base, it is a mix of 66 one bedroom/one bath units with 702 square feet, 36 two bedroom/one bath units with 978 square feet, 60 two bedroom/two bath units with 1,000 square feet, and 30 three bedroom/two bath units with 1,200 square feet per Respondent. Net rentable area is 177,576 square feet per Petitioner and 177,540 square feet per Respondent; the Board agrees with Respondent's net square footage. There are 86 detached one-car garages and 290 open parking spaces. Amenities include clubhouse, pool, and spa.

Respondent has assigned an actual value of $21,105,000.00 for each tax year. Petitioner is requesting an actual value of $15,700,000.00 for each tax year.

Market Approach

Based on the market approach, Petitioner presented six comparable sales ranging in sales price from $22,000,000.00 to $52,000,000.00; the comparables were located in four counties and none of them were from the subject's neighborhood. Petitioner relied on the adjusted price per unit range from $75,587.00 to $95,977.00 and reconciled to $84,000.00 per unit or $16,128,000.00.

Petitioner argued that sales within the Lowry neighborhood were not comparable to the subject property because of negative influences near the subject: immediate proximity of older, lesser-quality subsidized housing with a high vacancy rate; higher crime rate along Colfax Avenue a few blocks away; and nearby commercial properties and inferior views. Petitioner further argued that Respondent's Lowry-neighborhood sales were located multiple blocks to the north of the subject and were not impacted by the same negative influences.

Based on the market approach, Respondent presented three comparable sales ranging in sales price from $26,900,000.00 to $51,200,000.00. The following units of measure were weighed: price per unit range of $123,671.00 to $131,863.00 (using $130,000.00 at 192 units or $24,960,000.00); and price per square foot range of $127.47 to $135.46 (using $130.00 at 177,540 net rentable square feet or $23,080,200.00). Respondent reconciled to a market value of $23,250,000.00.

Respondent selected comparable sales from within the Lowry neighborhood, arguing that all apartment complexes carry equal marketability and that neither subsidized housing nor Colfax Avenue criminal statistics have affected surrounding values. No adjustments were made to any of the comparable sales.

The Board is convinced that Respondent's selection of comparable sales better represents market value due to their location within the Lowry neighborhood. The Board has less confidence in Respondent's Sale 3 because it was offered to the purchaser without exposure to the open market. The Board is also convinced that Respondent's sales have superior qualities: proximity to Lowry Park (jogging trails, baseball/basketball/tennis courts, and soccer fields); at least one is a gated community; at least one has putting greens, theatre, car care, and valet service per Petitioner; all three are located a greater distance from commercial properties and Colfax Avenue; superior construction quality; and attached garages and some two-car bays.

Following is the Board's reconstructed market approach of Respondent's Sales 1 and 2 with adjustments for location, project size, and construction quality and features:

	Respondent's Sale 1	Respondent's Sale 2
Sales Price	$51,200,000	$49,950,000
Location	-10%	-10%
Size	+ 5%	+ 5%
Comp quality	- 5%	- 5%
	-10%	-10%
Value/Unit	$111,304.00	$113,522.00
Value/square feet	$124.94	$121.91

Indicated value per unit: $112,000.00 X 192 subject units = $21,504,000.00.
Indicated value per square foot: $123.00 X 177,540 net square feet = $21,837,420.00.

The Board's reconciled market value for the subject property is $21,700,000.00.

Gross Rent Multiplier ("GRM") Analysis

The rent roll for the subject property includes gross rents, concessions, pet fees, and garage costs. The valuation date of June 30, 2004, is bracketed by most starting and ending lease dates. The rent roll was presented by Petitioner's witness although not used in his GRM analysis. Gross rents per rent roll are as follows:

1bd/1ba	66 units	$770, $780, $790, $800, $810 ($770/$780 are most frequent)
2bd/1ba	36 units	$960, $980, $990, $1000, $1010, $1020 ($980/$990 are most frequent)
2bd/2ba	60 units	$1000, $1010, $1020, $1030, $1040 ($1020 is most frequent)
3bd/2ba	30 units	$1200, $1210, $1220, $1230, $1240 ($1200/$1210 are most frequent)

Petitioner's witness presented a gross rent multiplier analysis using potential gross monthly rents minus rents for two units, one a model and the other employee housing. He selected rents from the lower end of the rent roll due to the difficulty in attracting tenants and the necessity to offer concessions. He applied 7% for vacancy and 11% for concessions, added actual garage rent, and applied a multiplier of 8.30 (the average multiplier for multi-family properties built since 1990 and selling during the base period in a six-county area as reported by CoStar). He reconciled to $78,827.00 per unit or $15,134,871.00.

Respondent's witness presented a gross rent multiplier analysis using a GRM of 10.25 and annual forecasted rents ($175,200.00 X 12 months) to arrive at an indicated value of $21,549,600.00. The GRM was based on the range of his three comparable market sales (9.27 to 10.6). He testified that forecasted rents, based on research not presented at this hearing, were more indicative of declining rents in the area than actual rents of $179,500.00 taken from historical rent rolls.

The Board finds that Respondent's GRM analysis follows acceptable appraisal practice. Respondent's analysis using potential rents supports the value indicated by the Board's reconstructed market approach, as does application of Respondent's actual rents, and application of the most frequently reported actual rents from the subject's rent roll.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax years 2005 and 2006.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered). Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 16th day of May 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Lyle D. Hansen

Lyle D. Hansen

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

MAY 16 2008

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

Heather Heinlein

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

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