

<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>CHERRY CREEK GREENS, LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 46378</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on September 17, 2007, Debra A. Baumbach and Diane M. DeVries presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Charles T. Solomon, Esq. Petitioner is protesting the 2005 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**10225 East Girard Avenue, Denver, Colorado  
(Denver County Schedule No. 06345-00-049-000)**

The subject property is 240 garden apartments on 9.07 acres built in 1978 consisting of sixteen frame, wood exterior buildings. One building is equipped with the laundry while the remaining fifteen buildings house 240 dwelling units. The subject consists of 160 one-bedroom units and 80 two-bedroom units. There is a total of 179,120 net rentable square feet with 658 square feet for each one-bedroom unit and 923 square feet for each two-bedroom unit for an average rentable square footage of 746 per unit. 236 units are available for leasing and four units are not available because two are used for models, one serves as management/leasing, and one is rented free to an employee. Amenities include tennis courts, swimming pool, and laundry building.

The subject property is a gated community with the exception of buildings H, J, and K. The gated community is an effort to alleviate crime in the area. Petitioner’s witness testified that Girard Avenue is reputed to be a gang and drug infested area.

Based on the market approach, Petitioner presented an indicated value of \$11,329,000.00 for the subject property.

Petitioner presented four comparable sales ranging in sales price from \$15,418,300.00 to \$24,700,000.00, in size from 214,104 to 305,032 square feet, and in price per square foot from \$67.66 to \$80.98. After adjustments were made, the sales ranged from \$10,568,000.00 to \$12,001,000.00 and from \$59.00 to \$67.00 per square foot.

Petitioner's witness testified to the four comparable sales and the adjustments made to each. Comparable 1 (Winridge) built in 1986, 364 units, and a sales price of \$24,700,000.00 or \$80.98 per square foot. Adjustments were made for location, physical characteristics, and non-realty components (personal property) for a total of 18%. The adjusted price was \$66.00 per square foot.

Comparable 2 (Timberwood) built in 1983, 336 units, and a sales price of \$18,150,000.00 or \$67.66 per square foot. Adjustments were made for physical characteristics, economic characteristics, and non-realty components for a total of .5%. The adjusted price was \$67.00 per square foot.

Comparable 3 (Conifer Creek) built in 1985, 248 units, and a sales price of \$16,481,700.00 or \$70.01 per square foot. Adjustments were made for location, physical characteristics, and non-realty components for a total of 15.5%. The adjusted price was \$59.00 per square foot.

Comparable 4 (Mill Pond) built in 1984, 232 units, and a sales price of \$15,418,300.00 or \$72.01 per square foot. Adjustments were made for location, physical characteristics, and non-realty components for a total of 15.5%. The adjusted price was \$61.00 per square foot.

Petitioner is requesting a 2005 actual value of \$11,329,000.00 or \$63.25 per square foot for the subject property.

Respondent presented an indicated value of \$13,760,800.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$4,300,000.00 to \$19,500,000.00 and in size from 50,856 to 194,421 square feet. Adjustments were made for date of sale, physical characteristics, unit size, and location. After adjustments were made, the sales ranged from \$12,524,400.00 to \$16,737,673.00, \$52,185.00 to \$69,740.00 per unit, or \$69.92 to \$93.44 per square foot.

All of Respondent's sales were built from 1970 to 1976, number of units ranged from 78 to 259, and the average unit size ranged from 641 to 751 square feet.

Respondent assigned an actual value of \$13,720,200.00 to the subject property for tax year 2005.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2005.

After review the Board determines that the comparable sales used by the parties were not good comparables. There were bulk sales, senior housing, and section 8 housing. The Board considers Respondent's Comparable Sales 2 and 4, and Petitioner's Comparable Sales 1 and 2 to be the best of the presented comparables. The Board agrees with adjustments presented by Respondent for all of these comparables. However, Respondent failed to adequately adjust for the location of the subject property. There was no dispute that this area has had issues with crime. The Board believes that a positive economic location adjustment is excessive. Therefore, after adjustments, the Board determines that the subject property should be valued at \$12,247,680.00, \$51,032.00 per unit, or \$68.38 per square foot.

The Board concludes that the 2005 actual value of the subject property should be reduced to \$12,247,680.00

**ORDER:**

Respondent is ordered to reduce the 2005 actual value of the subject property to \$12,247,680.00.

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

**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).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of 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).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may

petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2007).

**DATED and MAILED** this 7<sup>th</sup> day of December 2007.

**BOARD OF ASSESSMENT APPEALS**

Debra A. Baumbach  
Debra A. Baumbach

Diane M. DeVries  
Diane M. DeVries

This decision was put on the record

DEC 06 2007

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

Heather Heinlein  
Heather Heinlein

