

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LATIN QUARTER, III, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52212</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 21, 2010, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by Denise D. Hoffman, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Woodhaven Apartments
7500 E. Harvard Avenue Denver, Colorado
Arapahoe County Schedule No. 1973-28-3-16-001**

The subject is a 207 unit apartment complex located in the southeast Denver metropolitan submarket and consists of 10 residential buildings and one club house building on 7.231 acres. There are 9 studio units, 90 one-bedroom units, and 108 two-bedroom units in the project. The buildings are of frame construction with wood and stucco exterior and were built in 1974. Each apartment unit in the complex features central air conditioning, ceiling fans, wood burning fireplaces, balconies or patios, and storage areas. Amenities consist of an outdoor swimming pool, tennis courts, and a playground area. The project is considered to be well-maintained with no significant deferred maintenance.

Petitioner presented an indicated value of \$9,646,821.00 for the subject property.

Petitioner's witness, Mr. Jeff Hawks, a real estate broker specializing in multi-family properties, testified relative to his knowledge concerning seven sales presented by Petitioner. In addition, Petitioner argued that the appraisal and value offered by Respondent should be disregarded since two of the comparables sales were prior to the 18-month base period designated by statute, that the appraisal contained excessive errors, and that the Respondent relied on an income approach in his conclusion of value, which is constitutionally barred for residential ad valorem tax purposes. Petitioner concluded that value should be based on the average of two sales: 1) the sale used by both Petitioner and Respondent, which was the Willows at Tamarac Project and 2) Petitioner's comparable sale of the Lowry Village Project.

Petitioner is requesting a 2009 actual value of \$9,646,821.00 or \$46,603 per unit for the subject property.

Based on the market approach, Respondent presented an indicated value of \$11,592,000.00 or \$56,000 per unit for the subject property.

Respondent's witness, Mr. Steve J. Poland, presented an appraisal on the subject property and testified to the analysis and conclusions contained within the report. Five apartment project sales were presented in a market approach and ranged in sale price from \$7,000,000.00 to \$47,686,934.00 or \$49,206.00 to \$69,312.00 per unit. After adjustments, a reconciled value of \$56,000.00 per unit was concluded, reflecting a total value for the project of \$11,592,000.00. Mr. Poland testified that he placed most weight on Sale Nos. 1 and 4. No qualitative or quantitative adjustments were made to the comparables, and income characteristics of additional comparables were used to assist in ranking the sales. There was no attempt within the analysis by Respondent to convert income into any indication of value.

Respondent assigned an actual value of \$11,178,000.00 to the subject property for tax year 2009.

Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). The explanation and support for the seven sales provided by Petitioner's witness was not sufficient for the Board to question the analysis and conclusions provided by Respondent. In addition, there was no attempt by Petitioner to relate these sales to the physical and economic characteristics of the subject. Petitioner's claims, relative to Respondent's purported use of an extended base period, erroneous report, and the income approach, are found to be without significant merit. The Board finds that the comparable sales used in Respondent's market approach and the explanation and adjustments to those sales are reasonable and therefore most accurately reflect the market value for the subject.

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 Section 24-4-106(11), C.R.S. (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 Section 24-4-106(11), C.R.S. (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.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 3 day of December 2010.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley
MaryKay Kelley

James R. Meurer
James R. Meurer

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

Amy Bruins
Amy Bruins

