BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 66165
Petitioner: **MHC HILLCREST VILLAGE, LLC,** v. Respondent: **ADAMS COUNTY BOARD OF EQUALIZATION.**	

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 1, 2016, Debra A. Baumbach and Louesa Maricle presiding. Petitioner was represented by Larry Martinez, Esq. Respondent was represented by Kerri A. Booth, Esq. Petitioner is protesting the 2015 actual value of the subject property.

At the start of the hearing, the parties agreed to consolidate Dockets 66163, 66164, and 66165 for the purpose of the hearing only. The Board will issue separate decisions for each. The parties also agreed to stipulate to the admission of the exhibits and to each party's expert witness, subject to cross examination.

Subject property is described as follows:

1806 Cimarron Street, Aurora, Colorado
Adams County Parcel No. 01821-31-3-01-002

The property is a residential mobile home park known as Hillcrest Village. According to Adams County records, it was built in approximately 1957. It consists of 601 mobile home spaces for rent on 79.29 acres of land. The mobile home pads accommodate both single and double wide mobile homes. The property has a 2,736 square foot clubhouse with a laundry facility. There is an outdoor swimming pool. There is also a maintenance/storage building, and a third building that houses a second laundry room, and a mail facility.

Petitioner requested a value of $25,000,000 for tax year 2015. Respondent has an assigned value of $37,863,001. The property is classified as residential for ad valorem purposes, so both parties presented only the market approach to value.

Petitioner claims Respondent improperly used comparable sales with prices that cannot be accurately identified because they were part of large national portfolio Real Estate Investment Trust (REIT) purchases. Petitioner contends that it is not possible to extract all of the non-realty values associated with the properties to derive the true value of the real estate. Petitioner further claims the buyers in those transactions did not report the actual purchase prices on the Real Property Transfer Declaration (TD-1000) documents provided to the county, but allocated prices to each property for financing purposes and also based on property locations with favorable property tax burdens. According to Petitioner, the assessor improperly relied on allocated values for REIT bulk/portfolio transactions involving non-real estate components. Petitioner also claims Respondent improperly used an income approach to place an assessed value on the subject property.

Petitioner presented Robert M. Noesner, MAI of National Valuation Consultants, Inc. as witness. Mr. Noesner is a Certified General Appraiser in Colorado The witness presented an appraisal report showing 601 pad spaces, the same number used by Respondent, and reported the property was constructed in 1972.

The witness testified there have been few individual sales of comparable large mobile home parks in the Denver metropolitan area over the last several years. The witness gave testimony regarding Petitioner's claim that the portfolio sales in the greater Denver market involving REITs are not truly market transactions and should be excluded from consideration.

The witness testified that the reported prices for those sales are not based on the market value of an individual park. In many cases, the prices included personal property, owned manufactured homes, tenant financing packages for the purchase of park owned homes, and intangible value in the form of goodwill, estimated as high as 30% to 40% of the reported price. As a result, the witness concluded that the Denver metropolitan area sales that were part of the national REIT portfolio sales were not representative of the market value of the real estate for an individual mobile home park.

Petitioner's witness analyzed six comparable sales ranging in size from 95 to 294 pad spaces. Five of the sales occurred during the statutory 18-month base period and one sale took place in 2010, within the extended base period. The six properties were developed between 1969 and 1995. Two of the sales are located in Pueblo, one in Montrose, one in Berthoud, one in Cañon City, and one in Colorado Springs. The witness testified that he had at previous times inspected the sales located in Pueblo and Colorado Springs, he drove by the sale in Cañon City, but did not go onto that property. The witness did not make a personal inspection of the Berthoud and Montrose sales.

The witness first made a deduction to the sale price of comparable Sale 3 and comparable Sale 5 for any mobile homes owned by the property, then made an estimated 7.5% downward adjustment to each adjusted sale price for goodwill, based on the established nature of each park, the large base of park clientele, and existing employee base. An estimated 1% deduction was then made to each sale for personal property. After making these adjustments, the sale prices reported ranged from $19,815

to $35,849 per space. The witness also made qualitative adjustments to each sale, as deemed appropriate, for changing market conditions (time), location, size of the park, age and condition, density, occupancy, and community amenities. After considering the qualitative adjustments, the witness made an initial determination that the sales indicated a range of prices that were greater than $19,815 per pad space to greater than $35,849 per space.

The witness also estimated the gross rent multiplier (GRM) for each sale, calculated by dividing the potential gross rent by the sale price. After adjusting each GRM for park owned homes, intangible value, and personal property, the indicated multipliers ranged from 5.24 to 8.18. The witness concluded that the GRM analysis indicated a range of values for the subject property between $38,800 and $42,500 per pad space. Petitioner's witness concluded to an actual value of $25,000,000 for the subject property for tax year 2015, which is equivalent to $41,597 per pad space.

Respondent presented Cynthia K. South of the Adams County Assessor's office as witness. Ms. South is a Licensed Appraiser in Colorado. The witness testified that the subject property has a "good" quality classification and her appraisal shows an "average" quality classification for the clubhouse improvements.

Respondent's witness testified there were 11 mobile home park sales in Adams County during the five-year extended base period that were considered arm's-length transactions by the Assessor. The witness analyzed three sales that occurred during 2011. All of the sales had supporting TD-1000 documents filled out by the buyers. In early 2015, the Assessor's office took the additional step to send each buyer a letter asking to confirm the TD-1000 information. No corrections were received. Therefore, the witness relied on the sale prices shown on the TD-1000 documents and recorded deeds for the appraisal analysis.

Respondent's witness testified that in addition to the sale prices shown on the TD-1000 documents and the recorded deeds, she relied on data from the Co-Star valuation service. The witness pointed out that Co-Star provides information as to whether a sale price is based on an allocated value or is considered a full value price. In her testimony, Ms. South referenced the last portion of Petitioner's Exhibit 4 (not paginated) containing print-outs from the Co-Star website, that illustrated Co-Star's specifications of some sale prices within a bulk-sale transaction as "Full Value" and some as "Allocated." The witness stated that in her analysis she relied on the "full value" sale prices which she was able to match to the prices indicated in the special warranty deeds. She further opined that the full value prices reflected values with the non-real estate components already removed. She arrived at that conclusion by calculating the difference of approximately 30% between the gross sale prices and the full value prices as reported by Co-Star.

The three comparable sales analyzed by Ms. South range in price from $57,774 to $65,217 per space and in size from 345 to 766 spaces. The witness first made a 7% personal property deduction to each sale price. Adjustments for improving market conditions (time) were made to each sale. All of the sales are classified as "good" quality, the same as the quality classification for the subject. After adjustments were made, the indicated values ranged from $68,237 to $77,028 per pad space. The witness concluded to a value for the subject property of $75,000 per pad space and a total value for the property of $45,075,000.

Respondent assigned an actual value of $37,863,001 to the subject property for tax year 2015.

Petitioner presented insufficient probative evidence and testimony to prove the subject property was incorrectly valued for tax year 2015.

The Board was convinced that the assessor determined the assigned value of the property solely by consideration of the market approach to appraisal as required by the Colorado Constitution and statute. The notice of valuation for the subject property indicates that the property was valued using mass appraisal techniques. The Board finds that the subject property was valued by a land model that contained a value per space by quality. Testimony from Respondent's witness indicated that the assessor used a sales dollar per space in valuing the subject property. The Board believes that the assessor used sales to determine value. Based on sales, good quality mobile home parks were valued at $63,000 per unit and average quality mobile home parks were valued at approximately $42,000 per unit. Respondent only used rents for the limited purpose of estimating quality for use in the market approach. The Board finds that, consistent with Respondent's appraisal report, the quality of mobile home parks was determined by their rental rates per month, location, upkeep and amenities. The Board was not convinced that the limited use of rents to estimate quality amounted to a variation of the income approach to appraisal as argued by Petitioner.

The Board was not convinced by the market approach Petitioner used to value the subject property. The Board does not believe that Petitioner's comparable sales were truly comparable to the subject property. Petitioner's comparable sales were in significantly different economic locations (Montrose, Pueblo, Berthoud, Canon City and Colorado Springs) than the subject property's Denver-metro location. The number of spaces at each of Petitioner's comparable properties was also significantly lower than the number of spaces at the subject property. Petitioner's sales grid shows that rents for Petitioner's comparable properties average less than $350 per month, while the subject property rents for over $600 per month. These factors highlight significant differences between Petitioner's comparable properties and the subject property. Petitioner did not provide specific quantitative adjustments for these differences.

Petitioner's use of a gross rent multiplier as an adjustment tool to quantify Petitioner's qualitative adjustments was unconvincing. The relationship between rents and sale prices for Petitioner's comparable sales locations may or may not be the same as the relationship between rents and sale prices in the Denver-metro area. Without additional analysis, Petitioner's application to the subject property of a gross rent multiplier derived from Petitioner's comparable sales was speculative and not credible.

The Board was also not convinced that Respondent's use of property sales from real estate investment trust (REIT) bulk sale transactions was inappropriate under the specific facts presented in this appeal. The Board finds the testimony of Respondent's witness compelling. When bulk sale transactions are the primary market for a specific type of property (such as larger mobile home parks in Adams County), the use of property sales from bulk sale transactions may be necessary and appropriate. Testimony indicated that a likely buyer for the subject property would be a REIT. Given the influence REITs have on the mobile home park market in Adams County, the Board believes it is not reasonable to exclude REIT sales outright. Furthermore, the Board was not convinced that the

prices assigned to the comparable properties by the buyers in those transactions were not representative of market value. The Board finds Respondent appropriately used sales from the REIT bulk sale transactions in determining the assigned value for the subject property.

Finally, the Board was not convinced that the subject property was an average quality park (as argued by Petitioner), as opposed to a good quality park (as used by Respondent in determining the assigned value of the subject property). Petitioner's witness admitted that with the exception of the 3 mobile home parks that were the subject of the hearing, he has only appraised "perhaps" 2 other mobile home parks in the course of his career and those were "probably" located in New Jersey. He didn't recall specifically appraising any other mobile home parks in Colorado. He also admitted that mobile home park appraisal is not a field he specializes in. Furthermore, he admitted that he did not physically inspect all of Petitioner's comparable properties. Petitioner's witness lacked the basis for comparison necessary to convince the Board that the subject property was only an average quality park.

A taxpayer's burden of proof in a BAA proceeding is well-established: a protesting taxpayer must prove that the assessor's valuation is incorrect by a preponderance of the evidence. *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Petitioner's evidence did not convince the Board that the assigned value of the property for the 2015 tax year is incorrect.

Because Petitioner failed to convince the Board that the assigned value is incorrect, the Board finds it unnecessary to address the site specific appraisal report prepared by Respondent for the hearing. Pursuant to statute, the Board may not adjust the value of the subject property to a value higher than the valuation set by the county board of equalization. See Section 39-8-108(5)(a), C.R.S.

Although unnecessary to reach our decision for this appeal, the Board will address the disclosure of specific information from Real Property Transfer Declaration (TD-1000) forms in the comparable sales section of Respondent's appraisal report and in testimony by Respondent's witness.

According to the Assessors' Reference Library (ARL), sales information obtained from a TD-1000 form is confidential information. TD-1000 forms may be inspected by the grantee specified in the document, the grantor (if the grantor filed the document), the persons conducting any valuation for assessment study or their employees, and the Property Tax Administrator and employees of the Division of Property Taxation. See ARL Volume 2 page 1.8 and ARL Volume 3 pages 2.6 and 2.48.

Section 39-8-108(5)(c), C.R.S. prohibits the respondent in most BAA appeals from relying on confidential information which is not available for review by the taxpayer unless such confidential data is presented in such a manner that the source cannot be identified.

The ARL notes that the data from TD-1000 forms can be combined and summarized so that individual properties or owners are not identified. The assessor may provide these summaries upon request to taxpayers owning property that was valued using the data derived from the TD-1000 forms.

The Board notes that assessors may also independently verify sales information provided on a TD-1000 form. Independently verified sales information is likely not confidential as long as it is obtained by the assessor without providing an assurance of confidentiality.

The ARL manuals are binding on county assessors. See *Huddleston v. Grand County Board of Equalization*, 913 P.2d 15 (Colo. 1996). Given the binding effect of the ARL manuals on county assessors, the Board is reluctant to rely on sales information from specific TD-1000 forms that is not presented in a manner consistent with the ARL, *e.g.* that the individual properties or owners are not identified.

Respondent did not submit actual TD-1000 forms in this appeal. However, Respondent's appraisal report and testimony included sales information from specific TD-1000 forms, and the sales information was presented in a manner that the individual properties could be identified. The Board does not believe that the TD-1000 information was presented in a manner consistent with the instructions provided by the ARL. However, the Board did not rely on the sales information from the specific TD-1000 forms in reaching its decision for this appeal.

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-nine 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-nine 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 28th day of July, 2016.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Louesa Maricle

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

Milla Lishchuk

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