

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>NHPMS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 66915</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 19, 2016, Diane M. DeVries and MaryKay Kelley presiding. Petitioner was represented by Lee E. Schiller, Esq. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties agreed to consolidation of Docket Numbers 66913, 66914, 66915 and 66917 for purposes of the hearing. Separate decisions will be issued for each Docket.

Subject property is described as follows:

**3153 South Wadsworth Blvd, Lakewood, Colorado
Jefferson County Schedule No. 428187**

The subject property is an 85,584 square foot assisted living and memory care facility. It is comprised of 99 apartments, of which 78 are for assisted living and 21 for memory care. Subject property has several buildings that include studios and one-bedroom units; all with kitchenettes. The subject was built in 1999 on 6.1 acres. Its amenities include a TV room, game room and billiards, bistro/breakfast bar, living room/lounge, meeting room, restaurant style dining and a private dining room, hair salon, outdoor patios and courtyard.

Respondent assigned an actual value of \$11,880,000 (\$120,000 per unit) which is supported by an appraised value of \$12,375,000 (\$125,000 per unit). Petitioner is requesting a value of \$8,640,000 (\$90,000, rounded).

Petitioner's witness, Richard G. Stahl, Certified General Appraiser, presented a Sales Comparison Approach that concluded to an estimated value of \$8,640,000 for the subject for tax year 2015. Mr. Stahl testified that he applied a "going concern" analysis described by James D. Brown, MAI, in The Appraisal Journal's article titled *Going Concern Value in the Congregate Care Industry and R-41C*, April 1987, pp. 286-291. Mr. Stahl's methodology entailed analysis of the subject property, identification of the intangible assets, and estimation of the going-concern value.

Mr. Stahl described the tangible assets of Sales Two through Five; depreciated cost new of the improvements (Marshall & Swift Valuation Service), land values (Assessor data), and depreciated personal property (Assessor data). He subtracted these values from the selling price of each sale, the remainder being non-taxable intangible assets (business value). To derive the market value of the real property (land and improvements), he then deducted the intangible asset figure and personal property from the sale price. He presented an adjusted range for the five sales from \$77,046 to \$120,942 per unit, applied them to the Sales Comparison Analysis, and concluded to a value of \$90,000 per unit or \$8,640,000 total. Mr. Stahl did not apply this calculation to Sale One, testifying that the allocation had already been completed for that Sale.

Respondent's witness, Steve J. Poland, Certified Residential Appraiser for the Jefferson County Assessor's Office, presented a Sales Comparison Approach that concluded to a rounded value of 12,375,000. Mr. Poland presented five comparable sales and made adjustments for intangible assets (personal property, business value, and goodwill) as well as location and access, unit count, average size, parking, and construction quality. Adjustments were confirmed with individuals or representatives of the owner within the company or organization. The adjusted per unit range was from \$110,000 to \$139,000. With a median value of \$132,000 per unit and a mean value of \$129,600 per unit, Mr. Poland concluded to a value of \$125,000 per unit or \$12,375,000.

Respondent's witness, Michael H. Earley, Certified General Appraiser for the Jefferson County Assessor's Office, discussed Mr. Stahl's methodology. Mr. Earley referenced the article by James Brown cited by Petitioner's witness, which stated in relevant part that "Total property value is determined first . . . by using the sales comparison approach or income capitalization approach, whichever is more applicable." See Respondent's Exhibit B, at page 2. Mr. Earley noted that Colorado Statute requires that only the Sales Comparison Approach be used for residential properties; the use of other approaches (e.g. Income or Cost) is not permitted.

Mr. Earley testified that the land values relied on by Mr. Stahl were reported by the Assessor's Office as arbitrary allocations for tax purposes only and were not based on market value. He estimated that the allocated values opined by Mr. Stahl in his analysis could be 60% to 90% in error. In addition, Mr. Earley reported that Mr. Stahl's personal property figure for Sale Two was incorrect. Also, this sale was a new construction and there was no pre-leasing.

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

Section 39-1-103(5)(a), C.R.S. and Article X of the Colorado Constitution require the use of the Sales Comparison Approach when valuing residential real property

Petitioner's witness presents an analysis that allocates the intangible assets attributed to the business enterprise of the going concern. This analysis estimates depreciated cost new of the improvements of each comparable sale. The Board takes note of Respondent's contention that use of the Cost Approach is prohibited by Constitution and Statute.

Petitioner's going concern analysis also includes land values secured from county assessors. Respondent contends these values are arbitrary allocations and could be 60% to 90% in error. The Board agrees and, further, notes that Petitioner provided no market support for the values.

The Board has little confidence in Petitioner's Sales Comparison Analysis. The witness applies qualitative adjustments, which are subjective and unsupported by market data. The Board finds no evidence that they are weighed in the value conclusion while Respondent's adjustments are confirmed by the parties in each transaction.

The Board finds that Respondent's application of the Sales Comparison Approach is appropriate. The witness appropriately confirms the values of intangible assets, applies adjustments, and concludes to a value that is market based. The Board is persuaded by Mr. Poland's deductions and adjustments, which are supported by probative evidence. The Board is also persuaded by Mr. Earley's testimony.

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).

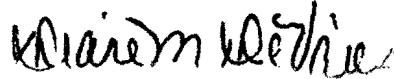
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

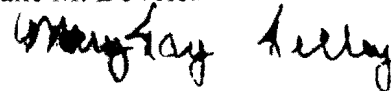
Section 39-8-108(2), C.R.S.

DATED and MAILED this 25th day of May, 2016.

BOARD OF ASSESSMENT APPEALS

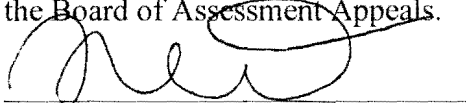


Diane M. DeVries



MaryKay Kelley

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



Milla Lishchuk

