

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>300 17TH LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 68542</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 15, 2016, Diane M. DeVries, and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey, Esq. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to admittance of Petitioner’s Exhibits 1 and 2 along with Respondent’s Exhibit A. Mr. Matt Poling, CPA with Ryan Property Tax Services and Greg A. Feese, Certified General Appraiser with the Denver Assessor’s Office were admitted as expert witnesses.

The subject includes three high-rise apartment buildings with first floor commercial space. The parties stipulated to a value of \$2,222,000 for the commercial portion of the property. The issue before the Board is the value of the residential portion of the subject.

Subject property is described as follows:

**300 East 17th Avenue, Denver, Colorado
(aka 1658 Grant Street)
Denver County Schedule No. 02349-18-028-000**

The residential portion of the subject consists of 411 apartment units in three towers of 10- and 14-stories, constructed on a 1.874-acre site. Net rentable apartment area is 332,950 square feet with an average unit size of 810 square feet according to information provided by Respondent. The unit mix includes 18 studio units, 164 1-bedroom units, and 229 2-bedroom units. Amenities include an outdoor heated swimming pool, community room, sauna, spa, and exercise facility. There are 682

parking spaces available to residents in a community garage. The buildings were constructed in 1985, but the property has been updated over a period of years, most recently in 2007, 2008, and 2009.

Petitioner indicates a slightly higher rentable area of 336,600 square feet for an average unit size of 819 square feet.

Petitioner is requesting an actual value of \$78,090,000 for the residential portion of the subject property for tax year 2015. Respondent assigned a value of \$89,365,800 for the residential portion of the subject property for tax year 2015 but is recommending a reduction to \$88,962,000.

Petitioner's witness, Mr. Poling, presented a market approach consisting of five comparable sales ranging in sale price from \$116,905 to \$218,675 per unit and in size from 188 to 420 units. The sales also indicated a price range per square foot from \$151.52 to \$264.20. The comparable sales were constructed between 1972 and 2012.

Adjustments were considered for differences in age of the property, average unit size, average rent per square foot, and for market conditions (date of sale). After adjustments were made, the sales ranged from \$166,366 to \$202,486 per unit or \$161.17 to \$250.28 per square foot. Mr. Poling concluded to a value of \$232.00 per square foot or \$190,000 per unit or \$78,090,000 total for the residential portion of the subject.

Mr. Poling also considered the gross rent multiplied (GRM) in valuing the subject's residential units. The sales indicated GRMs within a range of 8.59 to 12.51 prior to adjustment. Applying the same adjustments as in the market analysis, the sales indicated adjusted GRMs ranging from 9.03 to 12.22. Mr. Poling concluded to a GRM of 11.50 for the subject arriving to a value of \$78,501,850 for the subject equal to \$191,002 on a per unit basis.

Mr. Poling testified that the 1980's construction of the subject made it inferior to newer high-rise construction in the downtown area. This was most evident in the 8-foot ceiling height (compared to newer properties with 9-foot or vaulted ceilings), single laundry areas in each building (compared to laundry facilities in each unit in newer properties) and the subject's location east of the central business district compared to locations in the Platt Valley, Union Station and River North (RiNo) areas north and west of downtown. Petitioner is requesting that the 2015 actual value of the residential portion of the subject be reduced to \$78,090,000.

Respondent's witness, Mr. Feese, presented a market approach consisting of four comparable sales ranging in sale price from \$209,756 to \$241,458 per unit and in size from 205 to 415 units. Mr. Feese first deducted personal property, adjusted the sales for rent restricted units and for improved market conditions (date of sale). After these adjustments were made, the sales ranged from \$215,000 to \$251,241 per unit.

Mr. Feese classified and valued the subject as a Class A luxury apartment complex. He applied no adjustment to his comparable sales for location, testifying that the subject's uptown

location was similar to his sales, which were located near City Park, the Ballpark neighborhood, and in RiNo. His analysis of location was based on a comparison of walk, transit and bike scores.

Mr. Feese then made adjustments to the sales for year of construction, average unit size, parking (garage, carport, and open parking). After this further adjustment, Respondent's sales indicated a range of \$206,282 to \$250,415 per unit indicating a total value of \$84,781,900 to \$102,920,400 for the subject. Mr. Feese testified that he averaged the four sales to determine a value of \$92,302,125 using a comparison of sales.

Mr. Feese also considered the GRM of his comparable sales in his valuation of the subject. He testified that it was incorrect methodology to make adjustments to the GRMs, as Petitioner had done. Respondent's sales indicated a range of 11.22 to 14.50, producing a range in value for the subject of \$73,977,800 to \$95,618,600. Based on the median indicated by his analysis of GRM, Mr. Feese concluded to a value of \$78,941,800 under this analysis, reflective of a GRM of approximately 12.0.

Giving 75% of the weight to the value indicated by comparison of sales and 25% of the weight to the analysis of GRM, Respondent presented a value of \$88,962,000 for the residential portion of the subject property based on the market approach.

Respondent assigned an actual value of \$89,365,800 to the residential portion of the subject property for tax year 2015 but is recommending a decrease to his concluded value of \$88,962,000.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015. From the data presented by both parties, it was clear to the Board that the available number of comparable sales was limited. Despite renovations since completion, the Board was convinced that the subject had functional issues that could not easily or cost effectively be cured, such as a lack of laundry facilities in each unit, lower ceiling height, and inferior amenities compared to new buildings. Respondent's description of the subject as a luxury Class A property was not supported by the comparable sales used. Respondent relied on walk, transit and bike scores, concluding that the subject was superior to comparable properties located in areas that have recently seen significant new construction (Platte Valley, RiNo).

Using both an analysis of sales and a GRM analysis, Petitioner concluded to a narrow range of value for the subject. Respondent's analysis of the same factors but different sales produced a value similar to Petitioner's using GRM analysis, but the analysis of sales produced a value approximately 17% higher. Respondent's value of \$92,303,125 represents a GRM of 14.0 significantly above the GRM indicated for all but one of the sales presented by the parties. The Board was convinced through testimony that Respondent overstated the condition of the subject as a luxury Class A property and made insufficient adjustments to the sales for date of construction and condition. Respondent's inadequate adjustment for quality and condition in the market approach explains the significant difference in range in values indicated by Respondent. Finally, Mr. Feese placed significantly more weight (75%) on the method that produced a significantly higher value, with no reasonable justification.

The Board finds Petitioner's market approach to be flawed, primarily due to the incorrect sequence and duplication of adjustments. Accepted appraisal theory places transactional adjustments (such as an adjustment for date of sale) before property adjustments (size, condition). Further, an adjustment for size followed by an adjustment based on rent per square foot is found redundant.

Use of a GRM analysis produced a rather narrow range in value for the subject despite use of separate sales. Petitioner's analysis of GRM indicated a value of \$78,501,850. Respondent concluded to a median within a range of \$78,597,500 (Sale 2) and \$79,286,100 (Sale 4). Based on the GRM analysis of both parties, the Board concluded that the 2015 actual value of the residential portion of the subject property should be reduced to \$78,800,000.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the residential portion of the subject property to \$78,800,000. The Board accepts the stipulated value of the commercial portion of the subject at \$2,222,000 for a total indicated value of \$81,022,000 for tax year 2015.

The Denver County Assessor is directed to change their 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 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 August, 2016.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

Sondra W Mercier

Sondra W. Mercier

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

Milla Lishchuk

Milla Lishchuk

