

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>UNION CENTER, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 45753</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 6, 2006, Debra A. Baumbach and Steffen A. Brown presiding. Petitioner was represented by Barry J. Goldstein, Esq. Respondent was represented by Eugene J. Kottenstette, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

The subject property consists of four parcels of vacant land located in the Central Platte River Valley commonly known as the Commons Subdivision Filing #4.

Denver County <u>Schedule No.</u>	<u>Street Address</u>	Square <u>Footage</u>
02332-28-002	1708 Chestnut Street	59,619
02332-31-001	1709 Chestnut Street	112,817
02332-29-002	1808 Chestnut Street	47,166
02332-30-001	1809 Chestnut Street	<u>133,379</u>
TOTAL		352,981

The deed to the subject property restricts the majority of the property to residential development, with a maximum of approximately 20% of the floor space allowed for commercial development. As of January 1, 2005, no infrastructure was complete and none of the property was developed.

Respondent assigned an actual value of \$18,531,500.00 to the subject property for tax year 2005. Petitioner is requesting an actual value of \$12,883,808.00.

Petitioner's witness, Mr. Brad A. Weiman, a Certified General Appraiser with Integra Realty Resources, utilized five comparable land sales ranging in sales price from \$36.18 to \$75.17 per square foot, and in size from 30,405 to 245,385 square feet. Four of Petitioner's sales are planned for residential use, and one (Sale 3) is planned for 74% residential use and 26% commercial use. After adjustments for time, location, zoning/density/use and site conditions, the sales ranged from \$57.63 to \$79.99 per square foot. Petitioner relied on an indicated value of \$70.00 per square foot, a 15-year absorption period, and an 11.37% discount rate to conclude to a present worth value of \$36.50 per square foot (rounded).

Respondent's witness, Mr. Timothy K. Muniz, a Certified General Appraiser with the City and County of Denver Assessment Division, utilized 10 comparable sales ranging in sales price from \$53.33 to \$227.90 per square foot and in size from 25,968 to 136,519 square feet. After adjustments for time, the sales ranged from \$74.41 to \$227.65 per square foot. Seven of Respondent's comparables are commercial and reflect the upper range of the adjusted sales prices at \$143.83 to \$227.90 per square foot, with a median price of \$202.46 per square foot. Respondent's three residential sales reflect the lower range of adjusted sales prices at \$74.41 to \$106.25 per square foot, with a median price of \$84.78 per square foot. Mr. Muniz determined that 60% of the subject property should be allocated to commercial use at \$202.46 per square foot and that 40% should be allocated to residential use at \$84.78 per square foot, to arrive at an overall indicated value of \$155.40 per square foot. Respondent used an 11-year absorption period and an 11.37% discount rate to conclude to an indicated value of \$85.47 per square foot.

The Board was persuaded that the majority of the subject property will be devoted to residential use and should be valued accordingly. Respondent's assertion that 60% of the subject property will be used for commercial purposes at some point in the future is highly speculative, particularly in light of the deed restrictions.

Based on Petitioner's comparable sales and Respondent's Sales 8, 9 and 10, the adjusted sales prices range from \$57.63 to \$106.25 per square foot. The adjustments made to Petitioner's comparable sales for time (6%), location, zoning/density/use and site conditions were based on paired sales analyses. The only adjustments made to Respondent's comparable sales were for time (11.29%), which was derived from mass appraisal technique heavily weighted with improved sales data rather than vacant land sales data. However, the Board was convinced that Respondent's comparable sales, properly adjusted for differences in physical characteristics, would have resulted in a tighter range of sales prices. Petitioner's indicated base value of \$70.00 per square foot falls well within the range of the sales prices.

Sufficient probative evidence and testimony was presented to prove that the tax year 2005 valuation of the subject property was incorrect. Petitioner's appraisal report was well documented and substantiates the requested value.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$12,883,808.00, allocated as follows:

<u>Denver County</u> <u>Schedule No.</u>	<u>Street Address</u>	<u>2005</u> <u>Value</u>
02332-28-002	1708 Chestnut Street	\$ 2,176,094.00
02332-31-001	1709 Chestnut Street	4,117,821.00
02332-29-002	1808 Chestnut Street	1,721,559.00
02332-30-001	1809 Chestnut Street	<u>4,868,334.00</u>
TOTAL		\$12,883,808.00

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

APPEAL RIGHTS:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 7th day of March 2007.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Steffen A. Brown

Steffen A. Brown

This decision was put on the record

MAR 07 2007

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

Penny S. Lowenthal
Penny S. Lowenthal

