

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>COLUMBIA PLATTE VALLEY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION AND DENVER COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket Nos.: 51081 & 51205</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 22, 2010 Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Layne F. Mann, Esq. Respondents were represented by Charles T. Solomon, Esq. Petitioner is protesting the 2008 actual value of the subject property (Docket No. 51081); Petitioner is requesting an abatement refund of taxes on the subject property for tax year 2007 (Docket 51205).

The Board consolidated Docket Nos. 51081 & 51205 for hearing.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1851 Bassett Street, Denver, Colorado
(Denver County Schedule No. 02332-20-024-000)**

The subject is a 64,421 square foot parcel of vacant land zoned for residential use. The PUD allows the site to be developed with 135 apartment units, of which 19 must be designated as tax credit rent restricted units. Deed restrictions prevent the subject units from being sold as condominiums until September 2010.

Based on the market approach, Petitioner’s witness, Matthew W. Poling, CPA, presented an indicated value of \$2,250,000.00 for the subject property.

Petitioner presented seven comparable sales ranging in sales price from \$1,313,750.00 to \$7,500,000.00. Mr. Poling analyzed the sales based on sales price per buildable unit as proposed. The sales indicated a range of \$14,249.00 to \$33,186.00 per unit. Relying on qualitative adjustments, Mr. Poling concluded to a per unit value of \$16,667.00, taken from a range of sales believed to be most equal to the subject, with prices ranging from \$14,249.00 to \$16,667.00.

Petitioner contends that the subject value is limited by the number of potential units, the high number of restricted units required and the deed restriction preventing the sale of units in the immediate future. Petitioner contends that Respondents' Sales 1 and 4 include other uses and should not be considered.

Petitioner is requesting a 2007 and 2008 actual value of \$2,250,000.00 for the subject property.

Based on the market approach, Respondents' witness, Walter A. Sorrentino, presented an indicated value of \$4,058,000.00 for the subject property.

Respondents presented six comparable sales ranging in sales price from \$1,059,100.00 to \$13,750,000.00. Mr. Sorrentino analyzed the sales based on sales price per square foot of land, with an indicated range of \$21.72 to \$150.00 per square foot. After adjustments were made, the sales ranged from \$29.64 to \$110.62 per square foot. Mr. Sorrentino concluded to a value of \$75.00 per square foot of land area which was then discounted to present worth to reflect an extended sell-out period.

Respondents contend that sales located outside the Platte River Valley (PRV) district require significant adjustments and that Petitioner incorrectly relied on sales located outside the area designated under the PUD as #531 in their analysis of the subject. Respondents contend that all of the comparable sales have some form of deed restrictions or city ordinances on them and that the rent restrictions expire in September 2010, with no long term effect on value beyond what can be reflected in the discounting process.

Respondent, Denver County Board of Equalization, assigned an actual value of \$5,153,700.00 to the subject property for tax year 2008; Respondent, Denver County Board of Commissioners, assigned an actual value of \$5,153,700.00 for tax year 2007. Respondents are recommending a reduction in the value to \$4,058,000.00 for both tax years based on the appraisal.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2007 and 2008 valuation of the subject property was incorrect.

The Board is convinced that the number of potential units allowed for the subject affects the market value. An analysis based on sales price per buildable unit is required to reflect the development potential of the comparable sales. The Board finds Petitioner's unit of comparison to be most appropriate, with Petitioner's Sales 1, 4, 6 and 7 believed to be the most reliable, indicating a per unit range of \$14,249.00 to \$33,186.00. The Board finds that Respondents' Sale 1 was in no way comparable as it is designated for office development. Respondents' Sales 2, 3 and 6 are not

believed to be comparable as they are designated for a significantly higher or lower number of potential units. Sale 4 is not believed to be appropriate because of the inclusion of commercial uses.

The Board gives some consideration to Respondents' Sale 5, with a per unit sales price of \$36,585.00. Based on an average of the five sales considered at \$24,000.00 per unit, rounded, the Board concludes to a value of \$3,240,000.00 for the subject.

The Board concludes that the 2008 actual value of the subject property should be reduced to \$3,240,000.00.

ORDER:

Respondent, Denver County Board of Equalization, is ordered to reduce the 2008 actual value of the subject property to \$3,240,000.00.

Respondent, Denver County Board of Commissioners, is ordered to cause an abatement/refund to Petitioner based on a 2007 actual value for the subject property of \$3,240,000.00.

The Denver County Assessor is directed to change his/her 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-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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 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 for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Sections 39-8-108(2) and 39-10-114.5(2), C.R.S.

DATED and MAILED this 29th day of June 2010.

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.

HAFly

Heather Flannery

