

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 49867
& 51373**

Petitioner:

WIENER CONCORDIA LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 1, 2009, Debra A. Baumbach and Karen E. Hart presiding. Petitioner was represented by Layne F. Mann, Esq. Respondent was represented by Martin McKinney, Esq. Petitioner is protesting the 2007 and 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**6795 West 19th Place, Lakewood, Colorado
(Jefferson County Schedule No. 105626)**

The subject property is an apartment community built in 1985 known as “Concordia Apartments.” The complex consists of seven buildings with 168 units, parking structure and clubhouse. The apartment complex is situated on approximately 4.952 acres.

Based on the market approach, Petitioner presented an indicated value of \$10,859,000.00 for the subject property for tax years 2007 and 2008.

Petitioner’s witness Mr. Cary W. Bruteig, MAI, Certified General Appraiser, owner of Apartment Appraisers & Consultants testified he relied on an appraisal report that was originally done for lending purposes with an effect date of December 20, 2005. However, Mr. Bruteig testified

he updated the appraisal to an effective date of June 30, 2006: he removed Comparable Sales 1 and 2, added two additional comparable sales, and applied time adjustments to all the comparable sales.

Mr. Bruteig testified the subject property is comprised of seven three-story buildings consisting of 168 units with a unit mix of 84 one-bedroom and 84 two-bedroom apartments.

Petitioner relied on six comparable sales of apartment complexes ranging in sales price from \$10,830,000.00 to \$55,200,000.00. The number of units ranged from 140 to 580. After adjustments were made, the sales ranged from \$62,600.00 to \$70,700.00 per unit.

Mr. Bruteig testified the comparable sales selected are located throughout the Denver metro area and not specifically from Jefferson County. Potential buyers are looking for larger complexes and a wide range of unit mix versus a specific market area.

The six comparable sales used by Petitioner are diverse in size, unit mix and other characteristics. Adjustments were made to all six sales for location, the effect on market rents, date of sale, average unit size and mix and for amenities and parking. All of the sales with the exception of Sale 5 were adjusted for condition.

Overall the comparable sales required a limited degree of adjustments ranging from 0% to 31%. The adjustment for unit size and mix was based on a percentage difference in the average unit size. The unit value does not increase proportionately with size difference. To derive an adjustment factor, the percentage difference in size is reduced by a factor, typically from 40% to 75%. After adjustments, an indicated value per unit of \$65,000.00 was derived. Personal property was also deducted for a total indicated value of \$10,859,000.00 based on the sales comparison approach.

Mr. Bruteig testified he analyzed and used the comparable sales used by Respondent. He did not consider Respondent's Sales 2, 3 and 4 as suitable for comparison as three separate sales. He considered these as one sale which required an aggressive degree of adjustments, 31%, rendering the sale suspect in reliability. Mr. Bruteig concluded to an adjusted per unit price of \$67,600.00 for this sale. Mr. Bruteig also considered Respondent's Comparable Sale 1 in his six comparable sales, concluding to an adjusted per unit price of \$70,700.00.

Petitioner is requesting a 2007 and 2008 actual value of \$10,859,000.00 for the subject property.

Based on the market approach, Respondent presented an indicated value of \$14,011,200.00 for the subject property.

Respondent presented four comparable sales ranging in sales price from \$10,830,000.00 to \$18,064,200.00 and in number of units from 124 to 172. After adjustments the sales ranged from \$14,013,000.00 to \$15,659,000.00

Respondent's witness, Ms. Sara M. Thorpe, Certified General Appraiser with Jefferson County Assessor's office testified the subject property is a well-maintained, average 168-unit apartment complex constructed in 1985. In selecting the comparable sales that were used in the

analysis, sales of similar age, condition and size were considered. Adjustments were made for date of sale, unit size, age, quality and condition. Adjustments were also made for car storage and differences in physical characteristics. Additionally, all of the sales were adjusted downward for personal property.

Respondent's Sales 2, 3 and 4 were part of a large portfolio sale, however were considered to be suitable sales. The differences affecting the portfolio sales could be addressed through allocation from information obtained from the parties involved in the sale. The buyer in this transaction was contacted and disclosed a price per unit for each of the sales. All of the comparable sales are located in Jefferson County representing factors specific to the market area. The indicated per unit value ranged from \$83,409.00 to \$93,206.00; Respondent concluded to a value towards the bottom of the range.

A value conclusion was also considered by the gross rent multiplier methodology for an indicated value of \$18,763,618.00. This method was not relied on as the indicated value by the sales comparison approach indicated a much lower range.

As to the comparable sales used by Petitioner, most of the comparable sales are located outside of Jefferson County and are affected by location and different market conditions. Ms. Thorpe considered the sales she selected to be the best comparables for the subject property.

Respondent assigned an actual value of \$13,590,220.00 to the subject property for tax years 2007 and 2008.

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

Both parties presented thorough appraisal reports. Additionally, both parties made adjustments to the sales for all differences in physical characteristics and any factors affecting the sales.

Petitioner presented six comparable sales from throughout the Denver metro area and Respondent localized their four comparable sales to Jefferson County. The Board was not convinced the comparable sales used by Respondent were the best representative of market value. Isolating sales only within Jefferson County limits the analysis and value conclusion. The Board agrees with Petitioner that market perception of these types of properties more are influenced by specific characteristics not a specific location.

The Board placed most weight on Petitioner's comparable sales and value conclusion. Petitioner's adjustments were reasonable and supportable.

The Board concluded that the 2007 and 2008 actual value of the subject property should be reduced to \$10,859,000.00.

ORDER:

Respondent is ordered to reduce the 2007 and 2008 actual value of the subject property to \$10,859,000.00

The Jefferson 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 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-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 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 16th day of October 2009.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach
Debra A. Baumbach

Karen E. Hart
Karen E. Hart

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

Heather Flannery
Heather Flannery

