

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FOXFIRE II LLLP,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58093</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 17, 2012, Debra A. Baumbach and MaryKay Kelley presiding. W. L. Asher, M.D., represented Petitioner. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**1017 South Birch Street, Glendale, Colorado
Arapahoe County Schedule No. 1973-18-3-05-038**

The subject property consists of two six-story apartment buildings with a 132-unit mix (24 studios, 96 one-bedroom units and 12 two-bedroom units). Built in 1974 on a 2.253 acre site, features include parking (open and covered spaces and detached garages), a leasing office, club room, pool, hot tub, sauna, fitness center, laundry rooms on each floor, and elevators.

Respondent assigned a value of \$6,864,000.00 for the subject property for tax year 2011. Petitioner is requesting an actual value of \$6,200,000.00.

Dr. Asher, owner of the LLLP with extensive experience as an investor and a property manager, discussed two problems impacting marketability and value. The first was the subject's 24 studio units, which he equated to a zero count and which result in less value. The second was lack of insulation in the six-inch exterior brick walls; the cost of heating and cooling was absorbed by the owner, which reduced cash flow and impacted value.

Dr. Asher presented four comparable sales ranging in sale price from \$2,300,000.00 to \$5,900,000.00. No adjustments were made to the sales. The four, totaling \$16,666,000.00, were divided by their 360 units to derive a value per unit of \$46,294.00 and then applied to the subject's 132 units for an indicated value of \$6,200,000.00 rounded, Dr. Asher's requested value.

Dr. Asher considered Sale Four (Cherry Creek Place) to be the most reliable indicator of value due to its proximity, construction quality, number of units, average rent per unit, building height (six stories), age, and bedroom mix.

Respondent presented a value of \$7,392,000.00 for the subject property based on the market approach. Respondent's witness, Steve J. Poland, Certified Residential Appraiser, presented five comparable sales ranging in sale price from \$5,350,000.00 to \$22,240,000.00 and in price per unit from \$53,500.00 to \$70,966.00. Qualitative adjustments were made with no change in final price per unit. Mr. Poland placed greatest weight on Sale One (most similar in average rents per unit) with an adjusted sale price per unit of \$55,900.00. He concluded to a rounded value of \$56,000.00 per unit or \$7,392,000.00.

Mr. Poland analyzed gross rent multipliers of the five comparable sales presented in the market approach. Not having received Petitioner's rent rolls as requested, his source for rental data was Apartment Insights. He concluded to a multiplier of 6.90 and a potential annual income of \$1,077,034.00 for an indicated value per unit of \$56,300.00 or \$7,431,600.00. This approach was not weighed in final reconciliation but, rather, supported his market value conclusion.

Mr. Poland discussed Petitioner's four comparable sales, dismissing all from comparability: Sale One had considerably fewer units and was reportedly a non-qualified transaction between related parties; Sale Two had considerably fewer units and was 47% vacant at time of sale; Sale Three had significant deferred maintenance (\$150,000.00 to \$200,000.00 repair estimates per unit); and Sale Four (Cherry Creek Place) appeared to be an anomaly, its price per unit the lowest of 18 properties reviewed.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2011.

The Board places little weight on Petitioner's analysis: Sales One and Two have considerably fewer units than the subject, raising questions about their comparability; averaging is not an acceptable appraisal practice; adding values for parking rather than addressing them within the analysis does not conform to appraisal methodology; and details of the comparable sales (square feet, parking, unit mix, average unit size, and photos) were not provided.

The Board, in reviewing Respondent's analysis, notes the wide range within units of comparison; sale price (\$5,350,000.00 to \$22,240,000.00), number of units (100 to 360), and average rents per unit (\$564.00 to \$848.00). It also notes that prices per unit were not adjusted despite numerous qualitative adjustments (as many as ten per property).

The Board dismissed Respondent's Sales One, Three and Five because of their higher unit counts and Sale Four because the price per unit is the highest of all five sales and the average monthly rent is at the high end of the range.

The Board cannot ignore Cherry Creek Place's low price per unit (\$41,844.00) and GRM (4.78), both considerably lower than all of Respondent's sales and at the low end of 18 properties reviewed by Respondent. Price per unit is considered to be the most consistent unit of comparison, and Cherry Creek Place appears to be an anomaly and is dismissed from consideration.

Respondent's Sale Two (\$53,500.00 per unit) is most similar to the subject in physical condition; both have problems. Sale Two is an older building, likely with deferred maintenance due to age, while the subject's heating and cooling systems are a liability and need to be addressed.

While not presented for comparison by either party, the Board notes that Fairview (\$47,350.00 per unit) is similar in number of units (100) and average rent per unit (\$700.00).

The Board, after reviewing the two properties and their prices per unit (\$53,500.00 for Respondent's Sale Two and \$47,350.00 for Fairview), concludes at mid-point of the range or \$50,000.00 per unit.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$6,600,000.00.

The Arapahoe 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-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 5th day of June, 2012.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

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

[Handwritten signature]

Milla Crichton

