

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>9079 9099 FONTAINE LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58517</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 31, 2012, Gregg Near and James R. Meurer presiding. Petitioner was represented by Michael McAlpine, owner. Respondent was represented by Doug Edelstein, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**9079-9099 Fontaine St. Federal Heights, Colorado
Adams County Schedule No. R0115648**

The subject is a frame and masonry veneer, two-building, 29 unit apartment complex constructed in 1970 and located in Federal Heights. The subject buildings contain 17,306 square feet and include 14 one bedroom/one bath units, and 15 two bedroom/one bath units. In addition to the units, the project contains balconies, laundry facilities, and open paved parking spaces. Lot size is 35,262 square feet and all utilities are publically provided.

Petitioner purchased the building in April of 2007 for \$1,275,000.00 or \$43,966.00 per unit.

Petitioner is requesting an actual value of \$661,848.00 or \$22,800.00 per unit for the subject property for tax year 2011. Respondent assigned a value of \$1,230,000.00 or \$42,400.00 per unit for the subject property for tax year 2011.

Mr. McAlpine testified that the comparable sales used in Respondent's analysis were not similar to the subject relative to location. Petitioner further testified that there was no evidence

of appreciation in the subject property as claimed by Respondent and that the best comparable sale to the subject was the property located at 9200 Elm Court in Federal Heights. This property contained 97 units and sold in June of 2010 for \$3,416,750.00, or, \$35,224.00 per unit.

Respondent presented the following indicators of value:

Cost:	N/A
Market:	\$1,230,000.00-\$1,275,000.00
Income:	N/A

Based on the market approach, Respondent supported the current assigned value of \$1,230,000.00 for the subject property.

Respondent's witness, Mr. Donald P. Delmendo, a Certified General Appraiser with the Adams County Assessor's Office, presented a market approach referencing three sales. The comparables ranged in sales price from \$50,000.00 to \$57,692.00 per unit prior to adjustment and from \$52,000.00 to \$62,307.00 subsequent to adjustment. Major adjustments to the comparable sales consisted of year of construction, square footage, and unit mix. Mr. Delmendo concluded to the subject's value of \$1,230,000.00-\$1,275,000.00 via this approach.

As to the sale comparable presented by Petitioner, Respondent's witness testified that the transaction constituted a distressed sale; that the lot size of the comparable was much larger at 4.59 acres and that the comparable was superior in terms of amenities. Respondent's witness further testified that the prior sale of the comparable in 2009 at \$44,330.00 per unit was a better indication of the market value of the subject.

Respondent presented sufficient probative evidence and testimony to show that the tax year 2011 valuation of the subject property was correct.

Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the comparable sales used in Respondent's market approach, although different in location and market area, are reasonable and therefore accurately reflect the market value for the subject. The Board also concludes that the sale at 9200 Elm Court was distressed and did not constitute an accurate indication of the market value for the subject.

ORDER:

The petition is denied.

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 14th day of June, 2012.



BOARD OF ASSESSMENT APPEALS

Gregg Near

James R. Meurer

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

Milla Crichton