BEFORE THE IDAHO BOARD OF TAX APPEALS

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| IN THE MATTER OF THE APPEALS OF RATHDRUM TREEHOUSE LP AND TIMBER COVE LP from the Board of Equalization of Kootenai County for tax year 2007. | ) ) ) ) | APPEAL NOS. 07-A-2205 AND 07-A-2245 FINAL DECISION AND ORDER |

**COMMERCIAL PROPERTY APPEALS**

THESE MATTERS came on for consolidated hearing November 8, 2007 in Coeur d'Alene, Idaho before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Owner and Property Manager Greg Luce appeared for Appellants. Chief Deputy Assessor Richard Houser and Appraiser Louise Weed appeared for Respondent Kootenai County. These appeals are taken from decisions of the Kootenai County Board of Equalization (BOE) denying the protests of the valuation for taxing purposes of property described as Parcel Nos. R79700010020 and R7970010030.

**The issue on appeal is the market values of two rent-restricted tax-credit apartment complexes.**

**The value decisions of the Kootenai County Board of Equalization are affirmed.**

FINDINGS OF FACT

Parcel No. 79700010020 (Treehouse)

The assessed land value is $510,565, and the improvements' valuation of $2,089,358, totaling $2,599,923. The Appellant requests the land value remain at $510,565, and the improvements' value be reduced to $1,619,345, totaling $2,129,910. At hearing, taxpayer modified its value claim reducing the improvements to $1,540,000, for a total value of $2,050,565.

Parcel No. R79700010030 (Timber Cove)

The assessed land value is $365,863, and the improvements' valuation is $959,597,

totaling $1,325,460. Appellant requests the land value remain at $365,863, and the improvements' value be reduced to $764,802, totaling $1,130,665. At hearing, taxpayer modified its value claim reducing the improvements to $700,000, for a total value of $1,065,863.

The subject property is two separately owned and operated rent-restricted, tax credit apartment complexes (a.k.a. Section 42 housing projects.) One subject is 1.866 acres improved with a 22-unit complex, subject to a regulatory agreement that provides for rent-restricted senior housing. The other 2.605-acre 36-unit complex is dedicated by a separate regulatory agreement to multi-family housing. The County reports the projects were placed in service in 2002. The 36-unit property has a mix of rent-restricted and market rate units.

At hearing, Appellants presented four points to consider in relation to subjects' market values. First, a new issue with subjects' land values. Land value errors were not asserted prior to hearing and the presiding officer struck the issue and related evidence from the record where the County could not have foreseen or reasonably prepared for the issue. Regardless the information had timeliness issues or was dissimilar to the subject sites which were improved and committed to a specific use. The second point dealt with the proper treatment and value of remaining tax credits for each project. It was stressed that the value, not the face amount, of credits should be included in an estimate of market value. The Supreme Court's Brandon Bay and Kenmare Trace decision was referenced. Third was a claim that on "seasoned" properties like subjects, sole consideration should be given to the income approach to value. The fourth point raised concerned the capitalization rate used in the income approach. Appellants argued for an overall rate of 8% versus the county rate of 6.3%. Taxpayers were permitted, post-hearing, to submit written value calculations in support of the value claims.

Respondent presented relatively thorough written appraisals for each subject. All three

approaches to value were considered on each project. The valuations significantly conformed to a model developed by Idaho's assessors following public input and rulings of the Supreme Court concerning Section 42 housing projects. Taxpayers were given the choice of using this model if they provided the necessary information or having the projects valued like market-rate apartments. In the income approach (Section 42 model), actual rents were considered together with the discounted value of remaining future tax credits. Operating expenses were normalized. This resulted in the Treehouse being allowed more expense than the project's actuals. The capitalization (and discount) rate was based on indicated market rates from local and national data sources.

In the Assessor's reconciliation, the least weight (5%) was placed on the market approach due to a dearth of good comparable sales information. The income approach was weighted at 70%. The cost approach was reduced by a special obsolescence factor calculated from an analysis of the restricted rents.

## CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Special considerations pertain to the assessment of the subject apartment complexes where they are Section 42 housing. Idaho Code § 63-208; *Greenfield Village Apts., L.P. v. Ada County*, 130 Idaho 207, 938 P.2d 1245 (1997); *Brandon Bay, L.P. v. Payette County*, 142 Idaho 681, 132 P.3d 438 (2006). The market value standard still applies. Idaho Code §§ 63-205(1), 63-201(10).

The parties considered the special operating nature of the subject properties in the value cases presented. Appellants' cases sought to change certain inputs or judgments present in the County modeling. Truly independent appraisals were not presented. On taxpayers' differences with the Assessor, such as the correct capitalization rate and the proper weight to be given the income approach indicator, the Board found the County analysis more complete and better supported. On the valuation of tax credit benefits, the County did consider the likely present value of future credits. The difference with Appellants' case was basically in the proper discount rate. Here too the County's rate determination was found to be better supported and more credible than that suggested by taxpayers.

In conclusion the Board does not find that Appellants have demonstrated an over-assessment of the subject complexes. Nor was another error proven. Idaho Code § 63-511(4). The County assessments were based on a significant amount of information that was reasonably analyzed into final determinations of market value. The assessments were tailored around subjects' status as rent-restricted, low-income tax credit apartments. The value decisions of the Kootenai County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decisions of the Kootenai County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed.

MAILED April 3, 2008