

SEPTEMBER 26, 1997

The Special Master of the Value Adjustment Board, Manatee County, Florida, convened a REGULAR session in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Friday, September 26, 1997, at 9:00 a.m.

Presiding was: Janice M. Matson

Also present was:

Susan G. Romine, Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court

The hearing was called to order by Ms. Matson.

All witnesses and staff giving testimony were duly sworn.

97-171 WOODBURY APARTMENTS - DENIED

Christopher Hines of Real Estate Tax Services, Inc., stated the property is a 270-unit apartment complex, which received a tax credit. The owners consider the assessment to be excessive. He stated they had problems with leasing for the calendar year 1996 and had a vacancy rate of sixteen percent. They believe the property should be valued at \$6.8 million, not \$7,630,408.

Toby Richardson, Property Appraiser's office, stated the petitioner has presented no information to support the request for a reduced assessment.

Ms. Matson stated she would make a recommendation to the VAB.

97-092 & 97-093 CARUTHERS & ASSOCIATES, INC. - DENIED

Petitioner not present; determination based on petition.

Recess/Reconvene.

97-153 LURIA'S - DENIED

Eugene J. Davidson, Tax Adjustment Experts of Florida, stated the petitioner is seeking a reduced assessment on tangible property. He referenced a new law passed by the Legislature which sets the burden at preponderance of evidence. He submitted the definition of preponderance of evidence; copy of Court Reporter's transcript of proceedings before the Florida House of Representatives regarding House Bill 445; a brief prepared by Robert E. V. Kelley regarding Valuation of Tangible Personal Property; Statement of Intent regarding HB 445; Department of Revenue Guidelines (effective 12/30/82); copy of Final Judgment in Loral Data Systems versus John W. Mikos; information regarding Treasure Chest Advertising versus County of Los Angeles; Statement of Intent regarding HB 445; Attorney General Opinion (dated 3/22/73); and case law regarding Dade County Tax Collector versus Goble D. Dean. He submitted the Personal Property Appraisal for Luria's prepared by Harvey W. Sampson, dated 9/13/97, which lists the per item market resale value of the fixtures at \$56,000. The items are being offered for sale at \$12,500. He stated Luria's is in Chapter 11 Bankruptcy proceedings and is under court order to liquidate assets.

Mr. Davidson addressed **value in use** versus **value in exchange** as well as using the **cost approach** versus **market approach** in valuation of property. He argued that the value in use is not the proper standard but that the value in exchange is.

Harry Sampson, appraiser representing the petitioner, stated he conducted a complete inventory of the property. He stated the property stockroom was empty except for fixtures, which were not in use but on display only. He stated the market value of the furniture and fixtures was \$12,500. He reported he did not use the cost approach because he was unable to validate the costs.

Larry Bartgis, Property Appraiser's office, stated the appraisal report submitted is not a true appraisal but rather a report generated for the purpose of listing salvage value for the bankruptcy court. He stated the report does not list the years of acquisition; there are no bills of sale or invoices to support any market price of assets; and there is no evidence to support that the fair market value is two-thirds less than Department of Revenue guidelines. Further, the blue book copied in the report is undated and the itemized property does not comport with the itemized list provided by the taxpayer in its 1997 tax return. He noted that the business was a going concern as of January 1, 1997, and on July 24, 1997, that Luria's advertised a going-out-of-business sale. He submitted the Tangible Personal Property Tax Return of the petitioner and amended Tax Return for 1997 and stated he based his appraisal on the tax return filed. He stated the property in question is assessed at \$154,158. He submitted a quotation from liquidator David Spehar, relating to Wal-Mart, indicating the sale of used store fixtures and equipment is a lucrative business throughout the nation.

Mr. Davidson stated that although the appraisal report is dated September 13, 1997, the date of the appraisal is January 1, 1997, which is the assessment date.

In response to question, Debbie Lentz, Property Appraiser's office, stated there have been cases such as Luria's where the facilities have completely closed down as of January 1 of a particular year and consideration was given to obsolescence of assets.

Ms. Matson stated she would make a recommendation to the VAB.

97-142 DESOTO VILLAGE APARTMENTS - DENIED

Mr. Davidson stated that Desoto Village Apartments, a 92-unit apartment complex, is appealing the assessed value. He submitted an Income and Expense Analysis for Tax Year 1997, correspondence from the petitioner, and rent rolls. He stated the property was purchased January 1, 1996, for \$1,758,000; it is assessed at \$1,724,002, with the tangible personal property assessed at \$22,425. He stated as of January 1, 1997, there were 70 tenants, of which 35 were evicted and 15 leases were not renewed. After assuming management of the property, the petitioner discovered excessive deferred maintenance. He pointed out the assessment was based on the income approach which did not reflect the functional and economic obsolescence. He requested a reduction of 15 percent of the purchase price.

Toby Richardson, representing the Property Appraiser, stated he considered the cost, market and income approaches to value in making the assessment, and relied primarily on the income approach. He stated the functional and economic obsolescence is factored into the current rental rate of the property's units. He submitted a pro forma which he

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prepared indicating that profit and loss was considered in making the assessment. He submitted Class B Apartment Sales; and income, expense and operating data.

Ms. Matson stated she would make a recommendation to the VAB.

97-146 PALM GARDENS APARTMENTS - WITHDRAWN

Mr. Davidson announced that the petitioner has withdrawn his petition.

97-145 SOMERSET PLACE APARTMENTS - DENIED

Mr. Davidson stated the petitioner is appealing the assessment of the 259-unit apartment complex, on the basis the assessment should be no more than 85 percent of the purchase price. The property was purchased in December 1995 for \$6,300,000 and is assessed at \$5,545,409. He pointed out that the standard 15 percent reduction in purchase price should be applied uniformly to all properties.

He submitted case data from Louisville & Nashville R. Co. versus Department of Revenue pertaining to criteria 8 for non-rail property; excerpt from 36 Florida Supplement relating to criteria 8; case law relating to Southern Bell Telephone and Telegraph Company versus Broward County relative to assessment based on adjustment of 15 percent on fair market value.

Toby Richardson, Property Appraiser's office, submitted Class B Apartment Sales; and income, expense and operating data. He stated the income approach was used in making this assessment and the 85 percent has been calculated in the cap rate.

Ms. Matson stated she would make a recommendation to the VAB.

97-154 SENIOR MEADOWS - DENIED

Mr. Davidson stated the petitioner is seeking a reduced assessment on the property, which is an adult care living facility. He submitted a photograph of the property; a copy of business questions regarding mass appraisal; Income and Expense Analysis for Tax Year 1997; excerpt from Florida Law Weekly regarding taxation; a HUD publication on residential care facilities; comparable sales; memo from Department of Revenue to Brevard County VAB regarding mass appraisal; excerpt from Uniform Standards of Professional Appraisal Practice 1996 Edition regarding record keeping; and book entitled Retirement Communities in Florida by Mary Lucier Brooks. He pointed out that the assessment does not consider the danger of liability in the business of elderly assisted living. He requested the assessment be reduced from \$1,774,454 to \$1,000,000.

Hansel Hollinsworth, representing the Property Appraiser, stated the income, cost and market approach were considered in making the assessment, and the market data is reflective of the type and condition of the property. He noted they do not consider the same risk factors for the business portion of the operation.

Mr. Davidson pointed out that the Constitution prohibits counties from levying ad valorem taxes on intangible personal property.

Mr. Hollinsworth noted the income provided reflected only the gross rental receipts.

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Ms. Matson stated she would make a recommendation to the VAB.

Recess/Reconvene.

97-036 IRENE M. VONDRASEK - DENIED

(Petition considered 9/24/96; petitioner not present)

Eric Scarborough, Property Appraiser's representative, stated the property is located on Holmes Beach and was purchased three years ago for \$180,000. He referenced three comparable sales, all of which are smaller in square footage and lot size. He commented on articles supplied by the taxpayer relating to sales trends throughout Manatee County. He stated the assessed value of \$176,888 is supported by market data, noting that the market differs in the beach community.

97-077 BEACH INN - DENIED

Steve Hogan, representing the petitioner, appealed the assessed value of the property which is a 14-unit hotel on Holmes Beach. He stated the property was purchased in March 1993 for \$700,000, which they now believe to be excessive. He argued that the 15 percent increase in assessment over last year is unfounded due to business losses; reduced recreation area due to beach erosion; wear and tear; and major investor risk because the property is located seaward of coastal reconstruction. He submitted income and expense data to support his request.

Greg Roan, representing the Property Appraiser, provided sales comparisons including a map showing the location of the comparables and a pro forma displaying industry standards for income and expense for area motels. He noted that the petitioner contends he has a \$74,000 loss; however, that loss included inappropriate expense items. He stated his assessment is based on \$37,891 per unit, which is far below market. He pointed out that the comparables suffered from the same beach erosion problems and wear and tear, and are located right on the beach. He suggested that large operating losses can be attributed to management decisions.

Ms. Matson stated she would submit a recommendation to the VAB.

97-169 AAA AUTO CLUB SOUTH - DENIED

Petitioner not present; determination based on petition.

CONTINUED HEARINGS - 97-012 CHARLES CHAMBERS
AND 97-013 FRANK S. BRIGHT - DENIED

Ms. Matson announced that trust agreements regarding 97-012 Charles Chambers and 97-013 Frank S. Bright have been submitted for review and that copies have been provided to the Property Appraiser's office. She stated the hearings (continued from 9/19/97) would be held Friday, October 3, 1997, at 9:00 a.m.

97-152, 97-157, 97-158 and 97-159 FREEDOM VILLAGE - WITHDRAWN

Mr. Davidson stated the petitioner has reached an agreement with the Property Appraiser to accept last year's values for petitions 97-152, 97-157, 97-158 and 97-159 and, consequently, has withdrawn those petitions.


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MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:



Clerk

APPROVED:



Special Master

Adj: 4:00 p.m.
/eml