STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Car Wash Enterprises, Inc. Map 106-16-0, Parcel 73.00 Commercial Property Tax Years 2005 and 2006	))))	Davidson County

CORRECTED
INITIAL DECISION AND ORDER
Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$73,200	$333,400	$406,600	$162,640

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on August 28, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on October 11, 2006, at the Division of Property Assessment Office; present at the hearing were Michael John and Robbie Chandler from the Aegis Group, the taxpayer's representative and Mr. Dennis Donovan, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a commercial tract/convenience market (business enterprise)[1] located at 974 Murfreesboro Road, in Nashville, Tennessee.

The taxpayer's representative, Mr. Michael John, contends that the property is worth between $160,000 to $230,000[2] based on the lack of a viable tenant for the second floor of the building. Mr. John indicates that due to the location, lack of adequate parking space, economically depressed and rough neighborhood, there is little likelihood of finding a viable tenant. Mr. John indicates that the second floor should have no attributable value to the property because it is not income producing.

The assessor contends that the improvement on the property should be valued at $279,000 with the total value of $352,200. In support of his position, Mr. Donovan stated that while he partly agrees with Mr. John that the property is located in a depressed economical neighborhood he believes, and rightly so, that the 2nd story should have some value. He arrived at his figures by apportioning the rent received for the 1st story at a significant reduction and applied it to the 2nd story to arrive at his figures.

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[1] An entity pursuing an economic activity. *The Dictionary of Real Estate Appraisal,* 4th Ed., 2002.
[2] The appeal form indicates a value of $250,000.

Mr. John testified that while the property is not rented out, it is still heated and cooled (receiving electrical services). Mr. John used the income analysis approach to value (exhibit #2) and he also presented photographs to show some of the blight in and around the property, however; the germane issue is the value of the property as of January 1, 2005[3]. The basis of valuation as stated in T.C.A.§ 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

There are typically three (3) approaches to estimate the fair market value of property: the sales comparison approach, the cost approach and the income approach[4]. Since the subject property is a business enterprise the income approach appears to be the most appropriate method of arriving at a valid opinion of fair market value.

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $279,000 based upon the presentation of the documents from Mr. Donovan, a slight reduction from the Davidson County Board of Equalization's values appears to be appropriate.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board,* 620 S.W. 2d 515 (Tenn.App.)

With respect to the issue of market value, the administrative judge finds that Mr. John simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$73,000	$206,000	$279,000	$111,600

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

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[3] Mr. John also used the sales comparison approach but he had only one comparable sell figures to use. Both parties agreed that there were limited examples of sales in this area.

[4] The income approach is used for properties that generate or could generate cash flow to the owner. *A Business Enterprise Value Anthology,* David C. Lennhoff, MAI, CRE, Editor, © 2001

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 28th day of November, 2006.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF TENNESSEE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Michael John
Jo Ann North, Property Assessor