STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Gregg D. Lewis & Linda L. Goldstein Map 083-05-0, Parcel 268.00 Commercial Property Tax Years 2005 & 2006	))))	Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows, for both years:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$60,000	$254,400	$305,400	$122,160

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 28, 2005 and September 27, 2006, respectively.

These matters were 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. The hearings were conducted on November 7, 2006, at the Division of Property Assessment Office. Present at the hearing were Mr. M. Davis Gravely, 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 (20 Unit Apartment complex) located at 709- North 12th Street a property commonly known as the Heatherwoods Apartments in Nashville, Tennessee .

The taxpayer's representative, contends that the property is worth $200,000.00 on the appeal form but testified at the hearing to a value of $183,779.00. The County representative testified and presented proof that the value is $246,600.00 based upon the income approach to value.

The administrative judge finds that the subject property should be valued at $246,600. The germane issues are the value of the property as of January 1, 2005 and January 1, 2006. 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 . . . ."

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. 1981).

In this type of an appeal the petitioner must show by a preponderance of the evidence that an allegation is true or that the issue should be resolved in favor of that party. Uniform Rules of Procedure for Hearing Contested Cases. Rule 1360-4-1-.02 (7).

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). In appraising real estate for market value, there are three (3) approaches to value. The cost approach, the sales comparison approach and the income capitalization approach. Through the presentation of appropriate competent evidence using the income approach to the subject business entity the county has shown that the values should be changed to reflect that proof.

With respect to the issue of market value, the administrative judge finds that Mr. Gravely did not introduced sufficient evidence to affirmatively establish the market value of subject property as of January 1, 2005, and January 1, 2006, the relevant assessment dates 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 & 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$60,000	$186,600	$246,600	$98,640

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.

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 12th day of January, 2007.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

c: Mr. M. Davis Gravely
Jo Ann North, Property Assessor