STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	1003 Pennock Avenue Trust Map 082-03-0, Parcel 305.00 Commercial Property Tax Year 2005	))))	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
$13,500	$67,300	$80,800	$32,320

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 26, 2005.

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 December 6, 2006, at the Davidson County Assessor's Office. Present at the hearing were Bruce Bodor, the representative for the taxpayer, and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a duplex located at 1003 Pennock Avenue in Nashville, Tennessee.

The taxpayer's representative moved to amend paragraph 15 of the appeal form to reflect a value of $60,000. Mr. Bodor alleges that the duplex has 2 bedrooms and one bathroom on each side which rents for $450.00 per month, $900.00 total. He further states that the subject has a brick exterior and is straight through in design or what he called a "shot gun" approach. Mr. Bodor testified that he used the sales approach in determining his assessment of value. In making his argument Mr. Bodor quoted the statistics of several properties though he neglected to submit anything as an exhibit except the MSL listing for 1001 Pennock which he states is located next to the subject property. The property sold for $64,000 on November 15, 2004 at a Bank Sale. When Mr. Poling commented that this was not an arms length transaction because it was a Bank Sale, Mr. Bodor contoured that the property was listed on MLS for 42 days and that makes it a valid sale which should be considered. While the property may have been on an MLS

listing does not negate the nature of duress from the picture and therefore the administrative judge agrees with the county that the transaction is not a qualified transaction for consideration.

The assessor contends that the property should be valued at $80,800 based upon the action of the Metropolitan Board of Equalization and six (6) comparable sales that were introduced and marked as the county's exhibit number 2 as part of the record in this cause. The germane issue is the value of the property as of January 1, 2005.

Mr. Bodor continues to assert that the comparables used by the county should not be considered because they either are in a more desirable location and therefore more valuable, or are owner occupied and therefore better cared for. Mr. Bodor did not produce any evidence to show proper adjustments of the properties he wanted to use for comparables. 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).

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 . . . ."

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). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

The sales comparison approach is considered the most reliable method of determining the market value of residential property. While this is really commercial property and the income approach is the more reliable approach for income producing

property neither side presented anything for the administrative judge to consider. The representative from the county showed through his comparable sales analysis that the county's values are within range of the County Board's values.

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $ $79,800.[1]

With respect to the issue of market value, the administrative judge finds that Mr. Bodor 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 year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$13,500	$67,300	$80,800	$32,320

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.

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[1]Both parties agree that neither side of the Duplex has central heat and air so the improvement value will be reduce $1,000, the amount attributed by the county to the central heat and air.

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 8th day of February, 2007.

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

c: Mr. Bruce Bodor
Jo Ann North, Assessor of Property