

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Monroe Hall Apartments) Monroe County
a/k/a Monroe Ridge Apartments)
Property ID: 022 022 011.01)
Tax Year 2013) Appeal No. 87986

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$302,500	\$4,714,700	\$5,017,200	\$2,006,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on July 2, 2014, in Madisonville, Tennessee. The taxpayer was represented by registered agent Betty A. Sellers. The assessor of property was represented by Robert T. Lee, General Counsel for the Comptroller of the Treasury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 4.5 acre site improved with a 48 unit LIHTC apartment complex constructed in 2012. The apartments were constructed at a total cost of approximately \$6,700,000. The developer received \$6,000,000 in tax credits which were subsequently sold to Regions Bank for approximately \$4,600,000. The taxpayer also received \$942,000 in Section 1602 funds.

The taxpayer contended that subject property should be valued at \$3,241,800. In support of this position, Ms. Sellers entered into evidence an income approach valuing subject property as if it was a conventional apartment complex. Thus, Ms. Sellers did not consider the restricted rents, tax credits or Section 1602 funds.

The assessor contended that subject property should be valued at \$5,690,100. In support of this position, the testimony and written analysis of Ryan Cavanah, an appraiser with the Division of Property Assessments, was offered into evidence. Essentially, Mr. Cavanah prepared an income approach which first valued the income stream generated by the restricted rents. He concluded that the restricted rents support an initial value indication of \$1,868,200. He then added to this figure his determination that the tax credits and Section 1602 funds have a present value of \$3,123,800 and \$698,100 respectively.

The basis of valuation as stated in Tennessee Code Annotated § 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. . .”

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$5,017,200. For the reasons discussed below, the administrative judge finds that the taxpayer introduced insufficient evidence to support a reduction in value and that the assessor introduced insufficient evidence to support an increase in value.

Since the taxpayer is appealing from the determination of the Monroe 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 Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, Ms. Sellers was apparently unaware of the fact that in Tennessee LIHTC properties are not valued as conventional apartment complexes. The question of how to appraise LIHTC properties for *ad valorem* tax purposes was settled by the Court of Appeals in *Spring Hill, L.P. v. Tenn. State Board of Equalization*, 2003 WL 23099679 (December 31, 2003). Instead, such developments are valued by capitalizing the income generated by the restricted rents and adding back the present value of the tax credits. Similarly, the administrative judge ruled in *Sevierville Senior Apartments, L.P., et al.* (Sevier County, Tax Years 2012 and 2013) that Section 1602 funds should also be included as part of the value of an LIHTC property for *ad valorem* tax purposes. That decision is appended to this Order and hereby incorporated by reference in relevant part. The administrative judge understands that his ruling has been appealed to the Assessment Appeals Commission.

Normally, the administrative judge would adopt Mr. Cavanah's income approach as the basis of valuation insofar as he has valued the property in accordance with the foregoing precedents. In this case, however, the property was undergoing lease-up as of the relevant assessment date of January 1, 2013 and had not achieved stabilized occupancy. Thus, generally accepted appraisal practices require the appraiser to account for rent lost while the property is moving toward stabilized occupancy. See *Farnsworth Industrial Properties* (Shelby County, Tax Year 2005) (Initial Decision and Order, October 10, 2006). See also *Pfizer, Inc.* (Shelby County, Tax Years 2009, 2010 and 2011) (Initial Decision and Order, January 18, 2012). Just as the taxpayer has the burden of proof when seeking a reduced value, the assessor has the burden of proof when seeking an increased value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2013:

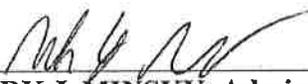
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$302,500	\$4,714,700	\$5,017,200	\$2,006,880

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.

The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.

ENTERED this 9th day of July 2014.



MARK J. MINSKY, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, Tennessee 37243

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Betty A. Sellers
Easley, McCaleb & Associates
Post Office Box 98309
Atlanta, Georgia 30359

Michael G. Shadden
Monroe Co. Assessor of Property
103 College Street, Suite 27
Madisonville, Tennessee 37354

Robert T. Lee, Esq.
Comptroller of the Treasury
Division of Property Assessments
505 Deaderick Street, 17th Floor
Nashville, Tennessee 37243

This the 9th day of July 2014.



Janice Kizer
Tennessee Department of State
Administrative Procedures Division

APPEAL TO THE STATE BOARD OF EQUALIZATION

FILING A PROPERTY TAX APPEAL ON-LINE

Filing a property tax appeal on-line is a convenient means to secure an early filing date for the appeal but it does not excuse the legal necessity of sworn and written documentation of your claim prior to a hearing.

We will send you a written confirmation of your appeal, a statement of any fees due, and a notary (acknowledgement) form to be returned to the Board prior to your hearing.

Costs of processing and hearing the appeal

The state does not impose a property tax, and part of the state's cost of processing and hearing local property tax appeals is borne by those pursuing the appeal. No more than \$9 of the cost fee is for processing and is nonrefundable.

Any taxpayer, assessor of property, or taxing jurisdiction who desires to appeal to the State Board from action taken by the County Board of Equalization must do so before August 1 of the tax year for which the appeal is made or 45 days from the date of the County Board of Equalization's notice, whichever is later.

1. Name of Property Owner (On Tax Notice) First/Business Name* Monroe Hall Apartments Last Name

2. Mailing Address Address 1* c/o Easley, McCaleb & Associates Address 2 P. O. Box 98309

City* Atlanta State* GA Zip Code* 30019 Telephone Number* 7704549998 E-mail Address bsellers@easleymccaleb.com

3. The following information must be provided concerning any person who will represent the property owner in this appeal (person to whom notice of hearing will be sent):

Relationship to Owner Same as Property Owner If agent, indicate registration number & firm name 252 EASLEY, MCCALED & ASSOC.

First/Business Name Last Name BETTY A. SELLERS

Address 1 Address 2 P.O. BOX 98309

City State Zip Code Telephone Number E-mail Address ATLANTA GA 30359 7704549998

4. The classification of the property on which this complaint is made is: (Check One)* Real Property (X) Tangible personal property () Intangible personal property ()

5. The property is presently subclassified as: (Check One)* Residential () Commercial (X) Industrial () Farm () Public Utility ()

6. County where property is located* MONROE Tax Year* 2013

7. Address of Property Property Address* 700 Telford Road Property City (if applicable)

8. Real Property Identification Number (this will expedite processing -- refer to assessor's notice)

Table with 8 columns: District/Ward, Map/Block, Group, Control Map, Parcel, Property ID, Special Interest, Acres. Values: 022, 011, 01, 4.5

9. Personal Property Identification Number (If applicable)

10. Was this property appealed to County Board of Equalization?* Yes (X) No ()

If no, please state why no appeal was made:

11. What is the appraised (not assessed) value according to the assessor's records for this property?* \$4,767,100

12. Please indicate below the use of this property on January 1 of the tax year above:*

List of property uses: Farm, Office building, Single family residence, Warehouse, Duplex, Retail, Apartment, Manufacturing, Condominium, Vacant land, Hotel/motel, Other.

RECEIVED

2014 AUG 11 AM 10:40

TN ST. BD EQUALIZATION

EASLEY,
MCCALED &
ASSOCIATES, INC.

Nation's Property Tax Service ©

VIA CERTIFIED MAIL
7010 1870 0000 2579 9211

August 7, 2014

Mr. Kelsie Jones, Executive Secretary
State of Tennessee
State Board of Equalization
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 9th Floor
Nashville, Tennessee 37243

**RE: Appeal to Assessment Appeals Commission
Monroe County, TN
Monroe Hall Apartments a/k/a Monroe Ridge Apartments
Property ID: 022 022 011.01
Tax Year 2013 – Appeal No. 87986**

Dear Mr. Jones:

We wish to file an appeal for the above referenced property to the Assessment Appeals Commission for Tax Year 2013. The basis of the appeal is the property is a Section 42 and has 1602 Funding. The rents are restricted and property was in lease up and cash flows could not support the County value.

Please let us know of a time and place for this appeal to be heard. Thank you for your attention to this matter.

Sincerely,



Betty A. Sellers
Vice President
Extension 259

Cc: Michael G. Shadden – Monroe Co. Assessor of Property
Certified Mail No. 7010 1870 0000 2579 9228

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