EQUALIZATION BOARD OF CLEVELAND COUNTY

MINUTES

FRIDAY, MARCH 29, 2019

The scheduled **special** meeting of the Cleveland County Equalization Board was called to order this 29th day of March 2019 at 9:00 a.m., in the conference room of the Cleveland County Office Building by Chairman Larry Heikkila. Tammy Belinson, County Clerk/Secretary, called roll and those present were:

Larry Heikkila, Chairman
Charles Thompson, Member
Tammy Belinson, Secretary

Bobby Cleveland, Member, was absent.

Others present were: Assistant District Attorney Carol Dillingham, Assistant District Attorney Jim Robertson, Assistant District Attorney Abby Nathan, Linda Atkins, Billijo Ragland, Douglas Warr, Charles Duggan, Mike Weddle, Russell Chronister, Kris Kelley, Lisa Ward, Jay Dobson and Shannon Largent.

After the reading of the minutes of the **Special Meeting of** January 22, 2019, and there being no additions or corrections, Charles Thompson moved, seconded by Larry Heikkila, that the minutes be **approved.**
The vote was: Larry Heikkila, yes; Charles Thompson, yes.
Motion carried.

A. Items of Business:

1. Chairman Heikkila called for **discussion, consideration, and/or action** on the following Letters of Protest:

    a. Jay Dobson representing ACC OP (Brooks Street), LLC, introduced Charles Duggan, PO Box 530292, Mountain Brook, AL 35253-0292, for #R0176247, Callaway House Apartments, 333 E Brooks Street, Norman, OK. Mr. Dobson said that this protest, filed in a timely manner in 2018, for various reasons the Board did not hear the 2018 case and is the reason they are here today to decide the fair cash value of the Callaway House as of January 1, 2018.

Charles Duggan said that he had some income statements of 2017, the first academic year end, which was after the first twelve months or fall to fall for the Board members. The student apartment property that they thought was a great idea in 2014-2015, simply has not worked out according to their plan. They anticipated a gross income of $9 million dollars range, but instead it is around the $6 million dollar range.

The Board members found in their packages, presented by Mr. Duggan, a cover letter summarizing the information attached and a 2017 year-end income statement.

He said it is not a good income model because the doors did not open until August 2017, with only four and a half months of income for 2017. Then he presented a full year of operating performance from August 1, 2017 to July 31, 2018. The August 2018 gross potential rents were $514,000.00 in monthly gross potential as opposed to a year earlier in 2017 the gross potential per month was $646,000.00. The inflated $646,000.00 rents have decreased with considerable concessions made and that is why they are at the $514,000 per month in August 2018. The yearly, the December 2017 monthly income, the net operating income is about $2.8 million dollars. Again, by using the real net operating income for the first operating year ending in July 30, 2018, you arrive at the same number $2.7 million dollars as seen in the description. By capitalizing those numbers a firm value of $42,710,000 is arrived at and a value of $40,308,000 is resolute for the 2018 actual by using a cap rate of 6.75 %. He pointed the Board's attention to the charts, behind the income statements, of cap rate studies of student housing. He blended the rates at 6.75%, because Callaway House is not really a tier 1 property nor is it a tier 2 older properties. The first operating year ends up with a value of $40.0 or $42.0 million dollars. The last document presented was a comparative survey. He said when the project was underwritten they tried to estimate the expenditures. He used for the tax estimation the highest guesstimate in the market and added 10% to that because they were newer with higher rents and came up with a value of about $43.0 million dollars. Since there was a mix-up, the $ 456,000 was escrowed in their annual statement and taxes weren't paid until this Board could decide on a value for 2018. He said it's been hanging out there for a while.

Douglas Warr said that it is wise to not assess someone at a value until it is heard. The property owner has the right to due process first and they don't like to put anything on the tax rolls and then they get a tax bill when it is unknown what is going to happen here.

Charles Duggan said that he appreciates that and added that they did set aside taxes on $40 million dollars which comes in real close to what the NOI capitalizes as well. The comparable property survey that you have here on the top left is titled 2018 Comp Study that's as of the end of the year 2017 and it has all of the nicer properties around campus and they are student orientated and he broke out the four newest of the nicest ones down at the bottom there and compared themselves to that group and their gross potential income as of a percentage rate averages 5.55% and they are taxed at; Mr. Warr suggested that they have a value of $63,352,810.00 back in the early fall and if you use the $63.0 as taxable value they are at the 8.939% multiple on gross potential income. Whereas, the comparable set here is 5.55% and nobody is higher than a 6.18 %. So, if you use a 6 multiple, which is higher than anybody else, you end up with a value of about $42.0 or $43.0 million dollars. According to Mr. Duggan, all the numbers will bring you back to that $43.0 million dollar range for taxable value and even at that number they are around double per debt value for taxable value than the average of comparable set. He asked if the Board had questions.

No questions from the Board.

County Assessor Douglas Warr provided the Board a packet of information and said that it was his office's fault that this protest was not heard last year, if they want to appeal, because of a glitch in their computer system. He thought that the notice went out until Charles Duggan called to tell him they never received their notice. Shortly thereafter, a notice was sent, but the Board of Equalization had adjourned for the year. The 2018 protest is scheduled for hearing today in 2019; because, every property owner deserves the right to due process and he is very glad they are getting their right to be heard today. The Assessor provided the Board with some pictures of the Callaway House depicting it as a very nice property around the University of Oklahoma Campus. Callaway House is situated on the corner of Jenkins and Brooks. Students may walk out the door straight to class or attend an OU Football game at the Gaylord Stadium. The property provides all varieties of amenities consisting of 917 beds, fully furnished apartments, paid utilities: water, sewer and trash, tenants pay their own electric, cable, swimming pool, computer lab, fitness area, ping pong, pool tables and game room, etc. The rooms are laid out where everybody shares the living area and the kitchen; with four beds and four baths per unit. It is mainly rented by the bed.

The location is spectacular because there is no other tracts that size available. He added that the new owners had the old property that once set on the lot completely demolished and rebuilt. He said that his office looks at all three approaches to value: cost approach, sales approach and income approach. Certain approaches work better for different types of properties and it greatly depends on the information that is available. The land sold in April 2015 for $12,500.00 and had a construction cost of $62,310,000 totaling $74,810,000. The land was put on for $9.0 million dollars even though it is a superb piece of real estate consisting of 7.5 acres sitting right on campus which is a great location. The building had a replacement cost of $61,198,520 and one can expect a much higher replacement cost today. Total investment cost to reconstruct added with the land came to in 2018 an appraised value of $70,358,328. The last time that he and Mr. Duggan talked concerning the Informal Hearing, they gave him an assessed value of $76.0 million dollars saying let the Board decide. When he looked at Mr. Duggan's cost and what his office used, he found that it could come down $6.0 million dollars. The value was lowered $6.0 million dollars from the 2018 Informal Hearing number held on October 1, 2018. The value is lowered from $76.0 million dollars and something to $70.0 million dollars. He said, "I didn't use the sales comparison approach, because I really didn't have any sales for properties this size on brand new property. So, I haven't done that. I did do an income approach and, typically, on a new property we use the cost approach where it will weigh it more, typically, on a new commercial property then it will the income or if we have sales. But because we are not really sure how the property is going to perform yet, you know, when they built in the community; they expected to get an 'x' amount of dollars in rent, like Charlie said. That didn't happen, because you all built your property and there is another one a mile down the road that is about half full or so now; you all have been stealing people from them. So we really don't like to estimate the income on a new property until we really get at least about three year's income stream. Because, you can really, most of them can take a while to ramp up, whether it is retail, apartments; you know hotels or motels, etc. What we try to do on a new property, we try to look at the cost heavier than the income of the sales because we are just not as confident in that approach as we are. "

Charles Thompson asked, "If this number changes, you have to go up this 5% a year? Is that the maximum you can go up, it's the number?"

Douglas Warr said, "Whatever value this Board sets…"

Charles Thompson said, "If they fill up, say next year, then you can't go back up to maximum?"

Douglas Warr said that there are cap laws and if the Board felt that our value was fair at $70.0 million dollars and next year the rents double and they think it is worth $100.0 million dollars, and then the property could only go up 5% per year until it hits market value. If the market crashed, then there is no limit in going down though. There is no longer fair and equal taxation, in Oklahoma. Usually, if there are ten houses on the same street they all paid the same value, now it is depending on where you're capped. The cap comes off if the property sales. So there are people down here and people up here. It is not fair, but we do not make the laws.

Larry Heikkila said, "You have to hold on to property. That's what it is for."

Douglas Warr said, "Usually, if you own homes, homestead property can only go up 3% a year and if the market is climbing more than that, then you are always going to be paying less than what the true market is."

Charles Thompson asked, "What is the occupancy now?"

Douglas Warr said, "It is at 100%. It is basically full for the 2017-2018 year, and it is already, basically, full for the fall starting in 2019 to 2020."

Charles Duggan said, "I gave you that to show in 2018, the end of the academic year, that shows 98% occupancy and using those numbers it capitalizes out to $43.0 million dollars in value. That's 5% cap rate. So we have filled up. We filled up by lowering our rents. We were able to buy occupancy, because we don't want empty units. We would rather have someone in there at $500.00 a month than at $675.00, but that costs us about $30.0 million dollars in market cap, because our income is no longer, the gross potential income is not what is on the sheet. Our gross potential income is $6,168,000 and it's not $7,196,000. The $7,196,000 was an actual number originally in the statement, but we had to drop it down and that was after dropping it down originally by a huge amount from $9.0 million dollars to $7.0 million dollars. Now, we are at $6.1 million dollars maximum gross potential. When you use the actual expenses you get your NOI with 98% occupancy with the rates we've had to go to fill up, it comes to $43.0 million dollars in value of 6.75% cap rate. That is the problem, so we have filled up."

Douglas Warr said there is no true income stream known on the property at this time, and will have to wait until the end of this year and the end of 2020 before having a good indication as to what to do on the income approach. He said that Mr. Duggan provided a room rate of $654.00 per person which makes it a potential gross income without vacancy around $7.2 million dollars. It allows for some vacancies, because it checks full in 2019-2020, without much vacancy. Callaway House receives a substantial amount of miscellaneous income in the amount of $300 per person in fees from a concrete parking garage, administrative fees and security deposits.

Charles Duggan asked if he could correct that statement. He said that they do refund security deposits.

Douglas Warr said, "As of when I went to visit yesterday it was marked out, it's no longer the policy."

Douglas Warr said that it's nonrefundable and zeroed out and added that he may want to go visit to find out what is going on.

Charles Duggan said, "All that other, you are saying, is accurate and is included in the income statement."

Douglas Warr said that on expenses, typically, on a newer property there is not a lot of expenses, they did throw in some reserves and allowed them about 25%. A lot of times, they get an itemized amount of dollars to pay, this bill is received, so they threw in a percentage there. They go around 25% on a property similar to this and then came out with an effective gross income of $7,380,000. They took out expenses around $ 1.8 million dollars. The Assessor arrived at an estimate of income around $5.5 million dollars by using a cap rate of 7.5%. He said that Charlie used today a cap rate of 6.75% which will obviously cause the value to go up. They came up with on the income approach a little under $73,800,000 total.

Chairman Heikkila asked what he used for a cap rate.

Douglas Warr said, "Seven and a half percent. It's right on here. Me and Charlie, on an email back and forth back in October, he put 7.5% down and I thought it was fair at the time. I just used that and we at least agreed on that for a cap rate for sure. So anyway, that comes up with a value under $74.0 million dollars based on the income and what I did on the final page in this little packet is, I feel that the income streams do not really determine what the income that property is going to generate right now. I still think it is still finding out the market; so, you can weigh the approaches, you know 50% cost and 50% income, but I am actually going to go with what we come up but I am going to go on cost like my office did with $70,358,000, that is what we think is a fair market. They invested close to $74,000,000 or so, on the property, and almost $75,000,000 and we are under that. We are just a little over $70.0 million dollars. That is kind of what we think is fair to the market and I guess I can answer any questions that you all have. I do have a couple of questions for some of these gentlemen here in just a second."

The Board had no questions at this time.

Douglas Warr said his question is for Charles Duggan concerning the properties listed on his spread sheet consisting of ten apartment complexes in Norman. The breakdown provides values for comparison; however, the properties listed are in no way comparable. He said that the first apartment located on 2900 Oak Tree Avenue is a student apartment complex and asked Mr. Duggan if he physically looked at that property as well as inspect all those on the list.

At this point, Charles Duggan indicated that he knows every property there.

Mr. Warr said many are not nice properties and added that one is unsafe to walk around in the vicinity of East Lindsey. He said the only property close in comparison is the Millennium, but the other properties are not comparable. Nothing compares to his property located near campus and Callaway House should have a higher value than the others in the area. He said the $6.0 million dollar reduction brings the $70.0 million dollar value to a fair market value. He asked Charles Duggan what he thinks the property is worth.

Mr. Duggan said that the top-end of what anyone would pay for this property is $43,000,000. They hired a broker to put a sign out on the national market across the United States to all interested developers and anybody that might be interested in buying this and there is no way that people will pay 6.75% cap. It would be too risky and too aggressive. So, he concluded that $43.0 million dollars is the top-end of what anyone will pay for this property.

Douglas Warr stated that $75,000,000 was invested and finds it hard to believe that the property is only worth $43,000,000.

Mr. Duggan said ACC invests in properties all over the country, all the time, to build on campus so students don't have to drive to get to campus. Each of the four properties that they used for comparisons are "pedestrian" properties. One can see how far they are from campus. There is not a great distance there. He said that the rents bear out the locations. The rents bear out the amenities. It's all smoothed out when the gross potential is analyzed. To say these are not comparable is objectionable. One can see what the rents are and what the age is, but the big problem is that the Assessor is using the income approach. He said that no one cares about the cost to build, what matters is the return on the investment. For instance, there is a 2.6 % inflationary factor built in the rents year after year and if they get raised by 5% that is double what they are going to be increased just to give an apple to apple comparison. In the income study that Mr. Warr has presented the potential gross income is $7,196,000 which is what it calculates to if you use December 2017 monthly income times 12 months. That's the number that was gross potential at the end of 2017, but at the end of 2017, if you use the gross potential income that didn't happen, or was not achieved, you have to use the actual vacancies which were 35% and he is using 3%. So, we are at 3% now, 2%, but not with the $7,196,000 gross potential. They are at $6.1 million dollars gross potential now to get to the 3-2% rate. There will be discrepancies because of the move in and the move outs. They were 33% at the end of the year. Gross potential was approximately $1,845,000. The actual expenses were $2,900,000 and one cannot operate student apartments for 25%. You have hand holdings, individual leases, you have four kids per unit, if Johnny flunks out the other three have to pay the rent or Jamie. They have to charge more, but it costs more. They have assistants that are like Dorm Moms, so to speak, who are given units and salaries. It costs closer to 40% for student apartments of EGI to operate these properties. Twenty-five percent won't open the doors. Instead of the $1,845,000 in expenses it is actually $2.9 million dollars and will go up as occupancy goes up, part of that was while at 65% occupancy in fall of 2017 and it gets to a net operating income of $5,535,000.00 which is about doubled to what it actually is. That's why the $70,000,000 assessed value is double over what it actually is. They do around fifteen to twenty properties around the country per year and nineteen out of twenty do really well, but some don't and Callaway House is the one. The market is not good. He gave the Board an article from a local newspaper which talks about the housing market in Norman. Mr. Duggan said it's about a year old, he said it describes that according to the article only 28% of housing is occupied on campus. He said that they missed it on this deal. It may stabilize at $39.0 million dollars depending on where the taxes come in. He said that it won't sell anywhere near the assessed value. He said that they really wish the Callaway House was never built, but they do love Norman. Mr. Duggan lamented that they should have built half the size, with fewer amenities and further away from campus, because they spent a whole lot of money and they are not getting their return on it. He said that the income statements are an accurate account of what has transpired.

Douglas Warr said that, in his opinion, the Callaway House location is a lot closer to campus than the luxury housing (Millennium Norman, 900 E Lindsey St, Norman) at the University; they made a mistake and built too far away by the OU Library. The Millennium's occupancy is down because the Callaway House (333 E Brooks Street, Norman) stole their occupancies.

Charles Duggan said there are not enough students on the campus to rent all these units. He said, "That's why I wish we hadn't built the darn thing."

Douglas Warr said their appraisal says "January 1, 2018", it is filled up now. He said income approach is not being used as the cost now, but will need to look at how things shape up through 2019 into 2020 for income expense.

Charles Duggan said Mr. Warr does actually have those figures and are stabilized for income expense. He said that it his choice to ignore them or not, but the County Assessor has stabilized income statements. It is very detailed of every dollar that came in and every dollar that went out.

Douglas Warr said they are not going to use a 35% vacancy on a property that has just opened.

Charles Duggan said if he is going to use 3%, then he has to use a more steady income and added that he cannot cap on a "pie in the sky" for income. He said one must work to set the values where they are now.

Douglas Warr said that when they get more income streams the numbers will become known.

Charles Duggan said, "Well, you know them, because I gave them to you. I don't want to be argumentative any longer."

Chairman Heikkila said the information presented was wonderful and it made his job easier in coming to a decision. He said after careful consideration of all the information submitted, his proposal is to lower the assessed value to $63,000,000. He knows this value a lot lower than the Assessor's value; however, it is still not the value Mr. Duggan was hoping for, but in time the income should improve and become the worthwhile endeavor that will delight Mr. Duggan. Chairman Heikkila asked if that will work for him.

Charles Duggan said, "No, sir."

Chairman Heikkila asked, "Would you like to speak to that again?"

Charles Duggan said that there was nothing to add on his end, except they cannot generate the income to make it worth $63,000,000. He didn't know how to make it anymore clearer than that. He said that it has the potential further down the road, but they already know what the 2018 stabilized numbers and capitalized at 6.75% making it worth $43.0 million dollars. He said that they will get it appraised and go to court, unfortunately that is the route they will have to go if it is the Board's decision.

Chairman Heikkila said, "I understand sir."

After a brief discussion, Charles Thompson moved to **reduce** the value to $58,000,000.00. Larry Heikkila seconded the motion.
The vote was: Larry Heikkila, yes; Charles Thompson, yes.
Motion carried.

Charles Duggan said, "I realize that you have a tough job and I appreciate you listening."

Chairman Heikkila said, "I appreciate getting good thorough packets that decisions can be made from."

B. There were no **Board members** discussions at this time.

C. **No Public Comments were made at this time.**

D. There being no further business to come before the Board, Charles Thompson moved, seconded by Larry Heikkila, to **adjourn** the meeting at 9:51 am.
The vote was: Larry Heikkila, yes; Charles Thompson, yes.
Motion carried.

(Clerk's Note: Agenda was posted on March 26, 2019 @ 10:12 AM.)

CLEVELAND COUNTY EQUALIZATION BOARD
CLEVELAND COUNTY, OKLAHOMA

Larry Heikkila, Chairman

ATTEST:

Tammy Belinson, County Clerk and Secretary to the Board

Minutes Prepared by: ______
Deputy County Clerk