**TENNESSEE STATE BOARD OF EQUALIZATION**
**BEFORE THE ADMINISTRATIVE JUDGE**

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|---|---|---|---|
| **IN RE:** | **Mohan Family Holdings LLC** | ) | **Shelby County** |
| | **Property ID: G0220B L00005** | ) | **Appeal No. 93132** |
| | **Property ID: G0220B L00006** | ) | **Appeal No. 93133** |
| | **Property ID: G0220B L00007** | ) | **Appeal No. 93134** |
| | **Property ID: G0220B L00008** | ) | **Appeal No. 93136** |
| | **Ganoo, Milind** | ) | |
| | **Property ID: G0220B L00001** | ) | **Appeal No. 93128** |
| | **Durja LLC** | ) | |
| | **Property ID: G0220B L00002** | ) | **Appeal No. 93129** |
| | **Ganoo, Sujata** | ) | |
| | **Property ID: G0220B L00003** | ) | **Appeal No. 93130** |
| | **Ganoo, Makarand** | ) | |
| | **Property ID: G0220B L00004** | ) | **Appeal No. 93131** |
| | **Tax Year 2013** | ) | |

CONSOLIDATED
INITIAL DECISION AND ORDER

Statement of the Case

The condominium units under appeal are all presently valued as follows:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|---|---|---|---|
| $53,000 | $62,000 | $115,000 | $46,000 |

An appeal has been filed on behalf of the property assessor with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 3, 2015, in Memphis, Tennessee. The assessor of property was represented by Thomas E. Williams, Esq. The taxpayers, Kamal Mohan and Milind Ganoo, represented themselves.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of eight condominium units located in the Farmington Boulevard Townhouses in Germantown, Tennessee. The taxpayers purchased subject units from the Bank of Bartlett in a bulk sale in 2011 for approximately $85,000 per unit.[1]

In conjunction with the 2013 countywide reappraisal program, the assessor valued each of the subject units at $133,500. The taxpayers appealed to the Shelby County Board of Equalization ["county board"] which reduced the appraisals of each unit to $115,000. The assessor appealed the ruling of the county board to the State Board of Equalization ["State Board"].

The assessor contended that the county board has valued subject units at less than their market value and the certified values of $133,500 should be reinstated. In support of this position, the testimony and written analysis of staff appraiser Stephen Branim was offered into evidence. Essentially, Mr. Branim's position was based upon two factors. First, he asserted that the appraisal report relied on by the county board [exhibit #1] was not indicative of market value as of the relevant assessment date of January 1, 2013 because the appraiser valued the units as of April 26, 2011 utilizing sales from 2010 and early 2011. Second, Mr. Branim entered into evidence as exhibit #2 his own Restricted Condominium Appraisal Report in which he concluded subject units had a fair market value of $133,500 as of January 1, 2013 based upon three 2012 sales.

Not surprisingly, the taxpayers relied on the April 26, 2011 appraisal report (exhibit #1) in support of their contention that subject units should remain valued at $115,000 in accordance

[1] The actual deeds are not in the record. The appraisal report entered into evidence as exhibit #1 indicated that the four units being appraised as of April 26, 2011were under contract for $342,000 or $85,500 per unit. The taxpayers testified that they purchased subject units for $84,000 per unit. The administrative judge finds it unnecessary to resolve these relatively minor discrepancies as the taxpayers did not contend that their purchase price was indicative of market value.

with the ruling of the county board. In addition to the appraisal report, the taxpayers claimed three additional factors support their position. First, they maintained that Mr. Branim's comparable sales are superior to the subject units as one is located across from the Germantown Country Club whereas subject units are on a much less desirable canal. Second, the taxpayers entered into evidence as part of exhibits #3 and #4 photographs showing that subject units do not have upgraded kitchens or three bedrooms like Mr. Branim's comparable sales. Third, the taxpayers introduced into evidence as part of exhibit #4 a data sheet from MAAR showing nine properties in the area sold in 2014 and 2015 for an average price of $88 per square foot.

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 subject units should be valued in accordance with Mr. Branim's appraisal report. That is not to say, however, that additional proof from the taxpayers might not support a somewhat lower value.

Since the assessor is appealing from the determination of the county board, the burden of proof is on the assessor. 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).

The administrative judge finds that the assessor clearly carried the burden of proof and established a *prima facie* case in support of Mr. Branim's concluded value of $133,500. In particular, Mr. Branim prepared a Restricted Condominium Appraisal Report that appeared to

comport with generally accepted appraisal practices. Most significantly, he utilized three sales which occurred between May 30, 2012 and October 26, 2012 in arriving at his estimate of value as of January 1, 2013. Since this appeal concerns tax year 2013, January 1, 2013 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

Respectfully, the administrative judge finds that the taxpayers introduced insufficient evidence to rebut the assessor's *prima facie* case or allow the administrative judge to modify Mr. Branim's analysis. For all practical purposes, the linchpin of the taxpayers' case was the appraisal report which valued four of the units at $115,000. The administrative judge finds that the appraisal report lacks probative value for any of several reasons. Of course, the appraiser was not even present to testify or undergo cross-examination. The Assessment Appeals Commission has refused to consider appraisal reports in similar circumstances. See, e.g., *TRW Koyo* (Monroe Co., Tax Years 1992-1994). Moreover, the appraiser was valuing subject property as of April 26, 2011 whereas January 1, 2013 constitutes the relevant assessment date. Hence, the appraiser understandably utilized sales of no relevance as of January 1, 2013. Indeed, the appraiser placed primary emphasis on sale #2 which occurred on September 30, 2010 when the market was not as vibrant. In fact, the taxpayers themselves testified that the market has improved since their purchase.

The administrative judge wants to stress that he finds no fault whatsoever with the appraisal report relied on by the taxpayers. The administrative judge does find, however, that it simply lacks relevance given a January 1, 2013 assessment date. Like Mr. Branim, the appraiser was forced to use sales from other developments due to the lack of sales within subject development. Thus, this is not a situation where a dated appraisal report has the advantage of superior comparable sales in terms of location in the same development.

The administrative judge recognizes that the taxpayers raised some legitimate questions concerning the fact subject units lack certain amenities found in the units considered by Mr. Branim. Absent additional proof and analysis from the taxpayers, however, the administrative judge cannot begin to quantify any possible adjustments.

The administrative judge finds the MAAR data sheet introduced into evidence by the taxpayers has no probative value. The administrative judge finds that sales from 2014 and 2015 are simply irrelevant for tax year 2013. *See Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County – Tax Year 1989) wherein the Assessment Appeal Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Furthermore, even if the sales were theoretically relevant, they would have to be analyzed to arrive at any meaningful conclusions of value for the subject units. For example, it appears that the nine sales ranged in price from $92,500 to $165,000 or $60 per SF to $105 per SF. Respectfully, the administrative judge finds the average price of $88 per SF meaningless insofar as the valuation of subject units is concerned.

## ORDER

It is therefore ORDERED that the following value and assessment be adopted for each of the parcels under appeal for tax year 2013:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|---|---|---|---|
| $53,000 | $80,500 | $133,500 | $53,400 |

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 11th day of February 2015.

**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

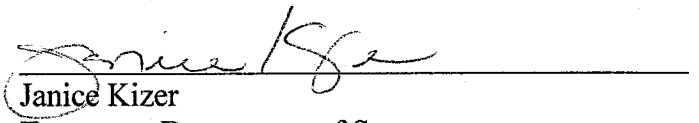
The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Kamal Mohan
Mohan Family Holdings LLC
Post Office Box 172327
Memphis, Tennessee 38187

Milind Ganoo
Post Office Box 38211
Germantown, TN 38183

Cheyenne Johnson
Shelby Co. Assessor of Property
1075 Mullins Station Road
Memphis, Tennessee 38134

This the 11th day of February 2015.



Janice Kizer
Tennessee Department of State
Administrative Procedures Division