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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Unpublished Opinion No. 2015-UP-303 (Ct.App. filed June 24, 2015)

Charleston County Assessor, ...Petitioner,

v.

LMP Properties, Inc., ... Respondent.

APPENDIX TO THE
PETITION FOR WRIT OF CERTIORARI
Volume I of II

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Charleston County Assessor, Petitioner, vs. LMP Properties, Inc., Respondent.	)	Docket No.: 09-ALJ-17-0533-CC **FINAL ORDER AND DECISION**

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CHARLESTON COUNTY
LEGAL DEPARTMENT

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to S.C. Code Ann. § 12-60-2540 (Supp. 2010) for a contested case hearing requested by the Charleston County Assessor ("Petitioner" or "Assessor"). The Assessor is seeking a review of the Charleston County Board of Assessment Appeals ("Board") decision to reduce the *ad valorem* assessment value of 121 condominium units owned by LPM Properties, Inc. ("Taxpayer" or "Respondent") to $10,090,500 for tax year 2008. Assessor initially valued the units at $16,454,000 for tax year 2008, and the Taxpayer timely filed a request for review by the Board. The Assessor now argues that its initial assessment is correct.

Following timely notice to the parties, a hearing on this matter was held at the offices of the Administrative Law Court in Columbia, South Carolina on August 24-25, 2010.

The primary issues to be ruled on by this Court are: the fair market value of the subject property for the 2008 tax year, and whether the property should be valued as individual condominiums or multi-family apartments.

FINDINGS OF FACT

Having observed the witnesses and evidence presented at the hearing, and taking into consideration the burden of persuasion on the parties and the credibility of the witnesses, I make the following findings of fact by a preponderance of the evidence:

1. The property that is the subject of this litigation consists of 121 single-family condominium units that are owned by the Taxpayer. These units are constructed on a 23-acre parcel of land located in Mount Pleasant, South Carolina, which is in Charleston County, and are

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SC ADMIN. LAW COURT

collectively known as The Legends of Mount Pleasant ("LMP"). The subject property was initially built in 2000 as part of a 200 unit apartment complex.[1]

2. The predecessor in title to the subject property is Keystone Legends I, L.P. ("Keystone"). On May 27, 1999, Keystone executed a mortgage note in the amount $15,891,900 payable to Malone Mortgage Company America, LTD, that was secured by a mortgage on the land along with the buildings and improvements thereon.[2] This document included a provision that the indebtedness secured by the mortgage note "may not in any event, be prepaid in whole or in part prior to March 1, 2006." See Respondent's Exhibit 7.

3. On April 26, 2006, Keystone converted the existing structures to condominiums by establishing a horizontal property regime pursuant to the South Carolina Horizontal Property Regime Act, S.C. Code Ann. § 27-31-10 *et. seq.*[3] On April 27, 2006, Keystone transferred ownership of the 200 single-family residential units to Taxpayer.[4]

4. Following conversion of the property to a horizontal property regime, Taxpayer began placing units on the market for sale as individual single-family condominiums. The units were marketed and sold in phases, and in 2006, Taxpayer sold 44 units. In 2007, Taxpayer sold 13 units, and in 2008, Taxpayer marketed 20 condominium units for sale, but only one unit was sold. As of the date of the hearing, Taxpayer has sold a total of 58 of the 200 condominium units. 142 units remain unsold, and 121 of the unsold condominium units are the subject of this dispute. The parties agree that the 121 units have never been marketed for sale, and have consistently been owned by a single entity and used as multi-family rental property from 2000 to the present. The remaining 21 units were initially set aside and marketed for sale; however, at

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[1] The original apartment complex consisted of 13 buildings located on a single parcel identified as tax map parcel number 599-00-00-020. Each building has 14 to 16 units per building, and the units were rented as multi-family units. The Assessor placed the property on the tax rolls in tax year 2002 at a fair market value of Eleven Million and 00/100 ($11,000,000.00) Dollars with a capitalization rate of 8.4% utilizing the income method of valuation.

[2] The mortgage note was dated May 26, 1999 and recorded on May 27, 1999 in the Charleston County RMC's Office.

[3] A Master Deed for The Legends Horizontal Property Regime was recorded on April 27, 2006 in the Charleston County RMC's Office.

[4] Ronald W. Follmann is the President of LMP Properties, Inc. Mr. Follmann is also the President of Keystone Legends, Inc., a corporation existing under the laws of South Carolina. Keystone Legends, Inc. is the General Partner of Keystone Legends, I, L.P., LMP's predecessor in title to the Legends.

the hearing the Taxpayer indicated those units have been taken of the market although their valuation is not a part of this action.

5. Also, following the conversion of the property from apartments to condominiums in 2006, the Assessor changed its records to reflect the property as 200 separate units, and each unit was assigned a tax identification number.[5] The Assessor also reviewed the property's valuation for *ad valorem* taxation purposes, and determined that the fair market value of the property for tax year 2008 was $16,454.000. Taxpayer disagreed with the Assessor's valuation, and submitted a timely request for review to the Assessor. The Assessor subsequently notified the Taxpayer of its determination that the initial valuation was correct. Taxpayer then sought review of the Assessor's valuation before the Charleston County Board of Assessment Appeals. Following a hearing on November 4, 2009, the Board set a compromised value of $10,090,500 for tax year 2008.

6. The Assessor timely filed a request for a contested case hearing before this Court seeking review of the Board's decision on the property's value for *ad valorem* taxing purposes.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude the following as a matter of law:

1. The South Carolina Administrative Law Court has jurisdiction over this matter pursuant to S.C. Code Ann. § 12-60-2540(A) (2010), S.C. Code Ann. § 1-23-600 (Supp. 2010), and S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2010).

2. While this matter reaches this Court somewhat in the posture of an appeal, the proceeding before the Court is a *de novo* contested case hearing to determine the appropriate valuation of the property in question based upon the evidence presented at the hearing. See Smith v. Newberry County Assessor, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002)

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[5] S.C. Code Ann. § 27-31-270 states:

> Taxes, assessment and other charges of this State, or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected **on each individual apartment, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the building or property as a whole**. No forfeiture or sale of the building or property as a whole for delinquent taxes, assessment or charges shall ever divest or in anywise affect the title to an individual apartment so long as taxes, assessment and charges on the individual apartment are currently paid.

The 200 units are identified as tax map numbers 599-00-00-068 through 599-00-00-267.

("When a tax assessment case reaches the ALJ in this posture [i.e., upon appeal from a county board of assessment appeals], the proceeding in front of the ALJ is a *de novo* hearing."); see also Reliance Ins. Co. v. Smith, 327 S.C. 528, 535, 489 S.E.2d 674, 677 (Ct. App. 1997) ("[A]though a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.").

3. In a contested case before the ALJ, the party contesting the decision of the county board of assessment appeal has the burden of proof. Here, the Assessor requested the contested hearing, and therefore the burden of proving the correctness of the valuation it asserts is on the Assessor. Id. at 534, 489 S.E.2d at 677. However, the Assessor is aided by the presumption that an assessor's valuation is correct. South Carolina Tax Commission v. South Carolina Tax Board of Review, 278 S.C. 556, 562, 299 S.E.2d 489, 492-93 (1983); 84 C.J.S. Taxation § 410 (1954). Therefore, the Taxpaper bears the burden of proving Assessor's valuation is incorrect. "Ordinarily, this will be done by proving the actual value of the property. The taxpayer may, however, show by other evidence that the assessing authority's valuation is incorrect. If he does so, the presumption of correctness is then removed and the taxpayer is entitled to appropriate relief." Cloyd v. Mabry, 295 S.C. 86, 88-89, 367 S.E.2d 171, 173 (Ct. App. 1988).

4. Expert testimony by an appraiser is a typical way to prove a property's value. Of course, the trier of fact is not compelled to accept an expert's opinion, but may give it the weight the trier of fact determines it deserves. Florence County DSS v. Ward, 310 S.C. 69, 72-73, 425 S.E.2d 61, 63 (Ct. App. 1992). The trier of fact is free to accept or reject in whole or in part the testimony of an expert. See Sauers v. Poulin Brothers Homes, Inc., 328 S.C. 601, 605-606, 493 S.E.2d 503, 505 (Ct. App. 1997). The trier of fact may accept the testimony of one expert over another, one over many, or many over one. Even when an expert's opinion is based on facts sufficient to form the basis for an opinion, it remains for the trier of fact to determine the probative value of the expert's opinion. Berkeley Elec. Coop. v. South Carolina Pub. Serv. Comm'n., 304 S.C. 15, 20, 402 S.E.2d 674, 677 (1991). "The probative value of expert testimony stands or falls upon an evidentiary showing of the facts upon which the opinion is, or would most logically be, predicated." Ward v. Epting, 290 S.C. 547, 563, 351 S.E.2d 867, 876 (Ct. App. 1986).

5. The trier of fact must weigh and pass upon the credibility of the evidence presented. See South Carolina Cable Television Ass'n. v. Southern Bell Tel. and Tel. Co., 308 S.C. 216, 417 S.E.2d 586 (1992). The trial judge who observes a witness is in the best position to judge the witness' demeanor and veracity and evaluate his testimony. See e.g., McAlister v. Patterson, 278 S.C. 481, 299 S.E.2d 322 (1982).

6. Article X of the South Carolina Constitution provides the general framework for the assessment of property, and various statutes provide the specifics. Section 12-37-930 provides in part:

> All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.

S.C. Code Ann. § 12-37-930 (Supp. 2009). Fair market value is the proper measure of value of real property for *ad valorem* taxation purposes. Lindsay v. South Carolina Tax Commission, 302 S.C. 504, 507, 397 S.E.2d 95, 97 (1990).

7. Ordinarily, the taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year. S.C. Code Ann. § 12-37-900 (Supp. 2009). In this case, the tax year under consideration is 2008, which points to December 31, 2007 as the valuation date. However, the General Assembly enacted another statute that bears on the issue of the valuation date for the subject property:

> When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted and on which the assessment is based.

S.C. Code Ann. § 12-43-215 (Supp. 2009) (emphasis added). Charleston County's last countywide reassessment was conducted in 2004, so this statute points to December 31, 2003 as the operative date for determining value.

8. In an attempt to harmonize the statutory provisions and in accordance with the general rule that taxing statutes must be construed most favorably for the taxpayer and against the taxing authority, Ryder Truck Lines v. South Carolina Tax Commission, 248 S.C. 148, 152, 149 S.E.2d 435, 437 (1966), the Charleston County Assessor valued the property as of both dates

and gave the taxpayer the benefit of which valuation was lower. This Assessor valued the property as of December 31, 2007 and as of December 31, 2003. Both parties agree that the valuation as of December 31, 2003 is lower, so that date controls. Therefore, the determination to be made by this Court is the fair market value of the subject property as of December 31, 2003.

9. In order to determine the fair market value of the subject property as provided in S.C. Code Ann. § 12-37-930, it is necessary to first determine the property's highest and best use. While the parties agree that determining the property's highest and best use is the first step in determining fair market value, they do not agree on the highest and best use of the subject property.

10. The Appraisal Institute describes the methodology for determining a property's highest and best use as follows:

> There are four tests that a property must meet before its highest and best use can be determined. The use must be physically possible, legally permissible, financially feasible, and maximally profitable (i.e., create the highest economic value). The appraiser must apply each of these tests and discuss each in the appraisal report to justify the ultimate opinion of highest and best use.

Real Estate Valuation in Litigation, 2nd Edition 1995, The Appraisal Institute, p.105.

11 Additionally, the Appraisal Institute defines highest and best use as follows: "The reasonably probable and legal use of vacant land or an improved property, that is legally permissible, physically possible, appropriately supported, financially feasible, and that results in the highest value." Appraisal Institute, The Appraisal of Real Estate 278 (13th ed. 2008). This definition applies specifically to the use of the land. However, South Carolina law recognizes that in cases where a site has existing improvements on it, the highest and best use may be different from the existing use.

12. Assessor 's expert discusses the highest and best use criteria in his Appraisal Consulting Report, which states that the elements are typically analyzed in the following sequence:

1. Legally permissible uses are considered. These result from such limitations as those imposed by private deed restrictions, zoning, building codes and environmental regulations.

2. Physically possible uses are considered in terms of the site size, shape, land area and topography. Also considered was the availability of public utilities.

3. Financially feasible uses are those uses that meet the conditions imposed by the two previous criteria and which may be expected to produce a positive financial return.

4. Maximally Productive use is that which among the highest financially feasible uses provides the highest rate of return, or value (given a constant rate of return). The use that provides the highest rate of return or value to the land is the highest and best use as if vacant, if the buildings still contribute to the site, the use that provides the overall greatest return or value is the highest and best use as improved.

Alternative uses that satisfy steps one, two and three are compared in step four to arrive at the maximally productive use, which is the highest and best use.

13. The parties agree through their experts that single-family condominium units and apartment units are physically possible on the subject property, and therefore, the physically possible prong of the four-prong test is satisfied. However, with respect to the legally permissible prong of the four-pong test, the Taxpayer believes that apartments are legally permissible, but single-family condominium units were not at the time of the 2004 countywide reassessment. Taxpayer asserts that as of December 31, 2003, the subject property was an apartment complex and could not be converted to condominiums and sold to third parties because the mortgage securing the HUD loan could not have been released. Therefore, Taxpayer contends the seller could not have conveyed marketable title to prospective buyers. The provisions in the mortgage referenced by the Taxpayer read as follows:

> That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed....
>
> and
>
> The indebtedness evidenced by this Note may not in any event, be prepaid in whole or in part prior to March 1, 2006. On or after March 1, 2006, Maker shall have the right to prepay in whole or in part....

14. It is undisputed that the 121 units at issue were not condominiums as of December 31, 2003, and Taxpayer argues that it was not legally permissible for the 121 units to have been condominiums as of December 31, 2003. Therefore, Taxpayer contends the hypothetical use as condominiums fails the first step of the highest and best use analysis, and thus, the potential use of the 121 units as condominiums by definition could not be the highest and best use.

15. On the other hand, the Assessor argues that the encumbrance is irrelevant (regardless of its legal effect) because at the time the Assessor reappraised the property in 2007, the provisions had expired, therefore they are no longer controlling. The Assessor contends that S.C. Code Ann. § 12-43-215 (Owner-Occupied Residential Real Property; Highest and Best Use; Appeals of Assessment Value) directs her to the last countywide reassessment date only to determine market value, not the point in time to determine the property's highest and best use. Section 12-43-215 provides in part:

> When owner-occupied residential property assessed pursuant to Section 12-43-220(c) is valued for purposes of ad valorem taxation, the value of the land must be determined on the basis that its highest and best use is for residential purposes. When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, *based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted* and on which the assessment is based.

S.C. Code Ann. § 12-43-215 (Supp. 2009) (emphasis added).

16. The Assessor's position requires the valuation of the 121 units based on a potential use that the parties concede was legally permissible as of December 31, 2007, and transports that legal classification back to December 31, 2003 for valuation purposes. Assessor's position requires the mixing and matching of the steps of the four-prong highest and best use test. Step one – whether the potential use was legally permissible – is to be applied as of December 31, 2007. Steps two, three, and four are to be applied as of December 31, 2003. This Court is not willing to adopt the Assessor's position on this issue. The Assessor's position does not give due consideration to the requirements of Section 12-37-930 that fair market value must reflect the uses and purposes for which the property is adapted and for which it is capable of being used. In Long Cove Home Owners' Ass'n, Inc. v. Beaufort County Tax Equalization Bd., 327 S.C. 135, 141, 488 S.C.2d 857, 861 (1997), the South Carolina Supreme Court interpreted this Section to say that "regardless of method used to determine true value, deed restrictions affecting the use of the land must be considered when determining value." (Quoting S.C. Tax Com'n v. S.C. Tax Board of Review, 287 S.C. 415, 339 S.E.2d 131 (Ct. App. 1985) (a lease affects the use of property and must be considered when valuing property)).

17. It is the duty of the courts to interpret a statute and to give it the effect intended by the legislature. State v. Landis, 362 SC 97, 606 S.E.2d 503 (Ct. App. 2004). The language used

should be given its plain and ordinary meaning without resort to subtle or forced construction to expand or limit the scope of the statute. Berkebile v. Outen, 311 SC 50, 426 S.E.2d 760 (1993). All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute. McClanahan v. Richland County Council, 350 SC 433, 567 S.E.2d 240 (2002). Our Supreme Court has held that where "the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. Hodges v. Rainey, 341 SC 79, 533 S.E.2d 578, 581 (2000). Also, when interpreting statutory language, a court should not concentrate on isolated phrases within the statute. "[T]he statute must be read as a whole and sections which are a part of the same general statutory law must be construed together and each given effect." (South Carolina State Ports Authority v. Jasper County, 368 S.C. 388, 629 S.E.2d 624 (2006). In this case, the plain and unambiguous language of the statute leaves no room for construction. While not expressly stated in Section 12-43-215, the assessment process is so intertwined with the valuation process that the legislative intent is clear. The property's fair market value must be based on the property's highest and best use on the valuation date, which in this case is December 31, 2003.

18. Furthermore, even if the Court accepted the Assessor's argument, which it does not, the Taxpayer asserts that the highest and best for the property on the date proposed by the Assessor (December 31, 2007) is still as apartments. According to the Taxpayer's expert, the market for condominiums declined substantially in the time since the subject property was converted in April 2006, and in his opinion, the property could only be used as rental apartments on December 31, 2007. Not because of the legal impediment, but because of market conditions. He cites the vast difference in the number of units sold in 2006 as compared to the number of units sold in 2007 as support for his conclusion. However, because this Court has already found that the date for determining the highest and best use is as of December 31, 2003, it will not delve further into this argument.

19. Relying on Tamsburg as support, the Taxpayer additionally argues that the subject property should be valued according to their *use* (as apartments) rather than how they are *titled* (as condominiums). However, having found that the highest and best use of the property is as

apartments rather than condominiums as urged by the Assessor, the Court finds it unnecessary to address Taxpayer's argument or Assessor's opposing argument.

20. As a final argument, the Taxpayer disagrees with the Assessor's methodology for valuing the 121 units as individual condominiums. Specifically, the Taxpayer contends that the Assessor's conclusions as to value are unsound because they rest on a faulty foundation – some of the sales comparables selected are significantly different from the subject property. And even if the valuations did not suffer from this fundamental flaw, Taxpayer argues that the valuations should be rejected because the Assessor failed to factor in the impact of single ownership on the value of the 121 units. Again, based upon the Court's earlier finding that the highest and best use of the subject property is as apartments rather than individual condominiums, the Court finds it unnecessary to address the Taxpayer's final arguments, or Assessor's arguments in opposition.

21. Based on the evidence presented during the hearing, there is no dispute between the parties as to the appropriate method for valuing the subject property as multi-family apartments. Both parties agree that the income method of valuation should be used. Using this valuation method, the Assessor's expert valued the subject property as apartments at $8,565,000 as of December 31, 2003. The Assessor's expert reached this value by dividing the net operating income of $729,182 by the capitalization rate of 7.50% which yields a value of $9,725,000. To this value, a deduction rate of 11.94% or $1,161,165 is applied.[6] Subtracting the reduction in value of the apartment complex of $1,161,165 from $9,725,000 renders a value of $8,565,000 for tax year 2008. In his valuation, the Taxpayer's expert, using the income approach, divided net operating income of $735,807 by a capitalization rate of 8.25% to value the subject property at $8,920,000 as of December 31, 2003. However, Taxpayer's expert valuation does not factor in the 11.94% deduction. After comparing the two values, I find that Assessor's value yields the highest rate of return when the subject property is valued as apartments.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

[6] The 11.94% reduction of value is based on Taxpayer's challenge of the 2005 tax year assessment. In that case, the Assessor valued the 200 unit apartment complex at $16,900,000 as of December 31, 2003; however after Taxpayer appealed, the Charleston County Board of Assessment Appeals reduced the value to $14,656,000. Neither party appealed. Using the appraisal from the 2005 appeal, the Assessor's expert used a pro rata technique to extrapolate a value for the 121 units involved in the case before this Court, and reduced that value to reflect the Board's reduction..

IT IS HEREBY ORDERED that the Assessor shall value the property owned by LMP Properties, Inc., consisting of 121 single family units and collectively known as The Legends at Mount Pleasant, at $8,565,000 for the 2008 tax year.

AND IT IS SO ORDERED.

SHIRLEY C. ROBINSON
Administrative Law Judge

October 11th, 2011
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above-entitled case upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 11 day of October 2011

By: Pebbie J. Henderson
(Legible Name)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Docket No. 2009-ALJ-17-0533-CC

Charleston County Assessor, ... Appellant,

v.

LMP Properties, Inc., ... Respondent.

NOTICE OF APPEAL

Appellant Charleston County Assessor appeals the Final Order and Decision of the Honorable Shirley C. Robinson, dated October 11, 2011, a copy of which is attached hereto and incorporated herein by reference as Exhibit A. Appellant received written notice of entry of the Final Order and Decision on October 13, 2011.

November 11, 2011

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Austin A. Bruner, Assistant County Attorney
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Exhibit "A"

Final Order and Decision

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Charleston County Assessor, Petitioner, vs. LMP Properties, Inc., Respondent.	)	Docket No.: 09-ALJ-17-0533-CC **FINAL ORDER AND DECISION**

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CHARLESTON COUNTY
LEGAL DEPARTMENT

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to S.C. Code Ann. § 12-60-2540 (Supp. 2010) for a contested case hearing requested by the Charleston County Assessor ("Petitioner" or "Assessor"). The Assessor is seeking a review of the Charleston County Board of Assessment Appeals ("Board") decision to reduce the *ad valorem* assessment value of 121 condominium units owned by LPM Properties, Inc. ("Taxpayer" or "Respondent") to $10,090,500 for tax year 2008. Assessor initially valued the units at $16,454,000 for tax year 2008, and the Taxpayer timely filed a request for review by the Board. The Assessor now argues that its initial assessment is correct.

Following timely notice to the parties, a hearing on this matter was held at the offices of the Administrative Law Court in Columbia, South Carolina on August 24-25, 2010.

The primary issues to be ruled on by this Court are: the fair market value of the subject property for the 2008 tax year, and whether the property should be valued as individual condominiums or multi-family apartments.

FINDINGS OF FACT

Having observed the witnesses and evidence presented at the hearing, and taking into consideration the burden of persuasion on the parties and the credibility of the witnesses, I make the following findings of fact by a preponderance of the evidence:

1. The property that is the subject of this litigation consists of 121 single-family condominium units that are owned by the Taxpayer. These units are constructed on a 23-acre parcel of land located in Mount Pleasant, South Carolina, which is in Charleston County, and are

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SC ADMIN. LAW COURT

collectively known as The Legends of Mount Pleasant ("LMP"). The subject property was initially built in 2000 as part of a 200 unit apartment complex.[1]

2. The predecessor in title to the subject property is Keystone Legends I, L.P. ("Keystone"). On May 27, 1999, Keystone executed a mortgage note in the amount $15,891,900 payable to Malone Mortgage Company America, LTD, that was secured by a mortgage on the land along with the buildings and improvements thereon.[2] This document included a provision that the indebtedness secured by the mortgage note "may not in any event, be prepaid in whole or in part prior to March 1, 2006." See Respondent's Exhibit 7.

3. On April 26, 2006, Keystone converted the existing structures to condominiums by establishing a horizontal property regime pursuant to the South Carolina Horizontal Property Regime Act, S.C. Code Ann. § 27-31-10 *et. seq.*[3] On April 27, 2006, Keystone transferred ownership of the 200 single-family residential units to Taxpayer.[4]

4. Following conversion of the property to a horizontal property regime, Taxpayer began placing units on the market for sale as individual single-family condominiums. The units were marketed and sold in phases, and in 2006, Taxpayer sold 44 units. In 2007, Taxpayer sold 13 units, and in 2008, Taxpayer marketed 20 condominium units for sale, but only one unit was sold. As of the date of the hearing, Taxpayer has sold a total of 58 of the 200 condominium units. 142 units remain unsold, and 121 of the unsold condominium units are the subject of this dispute. The parties agree that the 121 units have never been marketed for sale, and have consistently been owned by a single entity and used as multi-family rental property from 2000 to the present. The remaining 21 units were initially set aside and marketed for sale; however, at

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[1] The original apartment complex consisted of 13 buildings located on a single parcel identified as tax map parcel number 599-00-00-020. Each building has 14 to 16 units per building, and the units were rented as multi-family units. The Assessor placed the property on the tax rolls in tax year 2002 at a fair market value of Eleven Million and 00/100 ($11,000,000.00) Dollars with a capitalization rate of 8.4% utilizing the income method of valuation.

[2] The mortgage note was dated May 26, 1999 and recorded on May 27, 1999 in the Charleston County RMC's Office.

[3] A Master Deed for The Legends Horizontal Property Regime was recorded on April 27, 2006 in the Charleston County RMC's Office.

[4] Ronald W. Follmann is the President of LMP Properties, Inc. Mr. Follmann is also the President of Keystone Legends, Inc., a corporation existing under the laws of South Carolina. Keystone Legends, Inc. is the General Partner of Keystone Legends, I, L.P., LMP's predecessor in title to the Legends.

the hearing the Taxpayer indicated those units have been taken of the market although their valuation is not a part of this action.

5. Also, following the conversion of the property from apartments to condominiums in 2006, the Assessor changed its records to reflect the property as 200 separate units, and each unit was assigned a tax identification number.[5] The Assessor also reviewed the property's valuation for *ad valorem* taxation purposes, and determined that the fair market value of the property for tax year 2008 was $16,454.000. Taxpayer disagreed with the Assessor's valuation, and submitted a timely request for review to the Assessor. The Assessor subsequently notified the Taxpayer of its determination that the initial valuation was correct. Taxpayer then sought review of the Assessor's valuation before the Charleston County Board of Assessment Appeals. Following a hearing on November 4, 2009, the Board set a compromised value of $10,090,500 for tax year 2008.

6. The Assessor timely filed a request for a contested case hearing before this Court seeking review of the Board's decision on the property's value for *ad valorem* taxing purposes.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude the following as a matter of law:

1. The South Carolina Administrative Law Court has jurisdiction over this matter pursuant to S.C. Code Ann. § 12-60-2540(A) (2010), S.C. Code Ann. § 1-23-600 (Supp. 2010), and S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2010).

2. While this matter reaches this Court somewhat in the posture of an appeal, the proceeding before the Court is a *de novo* contested case hearing to determine the appropriate valuation of the property in question based upon the evidence presented at the hearing. See Smith v. Newberry County Assessor, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002)

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[5] S.C. Code Ann. § 27-31-270 states:

> Taxes, assessment and other charges of this State, or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected **on each individual apartment, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the building or property as a whole.** No forfeiture or sale of the building or property as a whole for delinquent taxes, assessment or charges shall ever divest or in anywise affect the title to an individual apartment so long as taxes, assessment and charges on the individual apartment are currently paid.

The 200 units are identified as tax map numbers 599-00-00-068 through 599-00-00-267.

("When a tax assessment case reaches the ALJ in this posture [i.e., upon appeal from a county board of assessment appeals], the proceeding in front of the ALJ is a *de novo* hearing."); see also Reliance Ins. Co. v. Smith, 327 S.C. 528, 535, 489 S.E.2d 674, 677 (Ct. App. 1997) ("[A]though a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.").

3. In a contested case before the ALJ, the party contesting the decision of the county board of assessment appeal has the burden of proof. Here, the Assessor requested the contested hearing, and therefore the burden of proving the correctness of the valuation it asserts is on the Assessor. Id. at 534, 489 S.E.2d at 677. However, the Assessor is aided by the presumption that an assessor's valuation is correct. South Carolina Tax Commission v. South Carolina Tax Board of Review, 278 S.C. 556, 562, 299 S.E.2d 489, 492-93 (1983); 84 C.J.S. Taxation § 410 (1954). Therefore, the Taxpaper bears the burden of proving Assessor's valuation is incorrect. "Ordinarily, this will be done by proving the actual value of the property. The taxpayer may, however, show by other evidence that the assessing authority's valuation is incorrect. If he does so, the presumption of correctness is then removed and the taxpayer is entitled to appropriate relief." Cloyd v. Mabry, 295 S.C. 86, 88-89, 367 S.E.2d 171, 173 (Ct. App. 1988).

4. Expert testimony by an appraiser is a typical way to prove a property's value. Of course, the trier of fact is not compelled to accept an expert's opinion, but may give it the weight the trier of fact determines it deserves. Florence County DSS v. Ward, 310 S.C. 69, 72-73, 425 S.E.2d 61, 63 (Ct. App. 1992). The trier of fact is free to accept or reject in whole or in part the testimony of an expert. See Sauers v. Poulin Brothers Homes, Inc., 328 S.C. 601, 605-606, 493 S.E.2d 503, 505 (Ct. App. 1997). The trier of fact may accept the testimony of one expert over another, one over many, or many over one. Even when an expert's opinion is based on facts sufficient to form the basis for an opinion, it remains for the trier of fact to determine the probative value of the expert's opinion. Berkeley Elec. Coop. v. South Carolina Pub. Serv. Comm'n., 304 S.C. 15, 20, 402 S.E.2d 674, 677 (1991). "The probative value of expert testimony stands or falls upon an evidentiary showing of the facts upon which the opinion is, or would most logically be, predicated." Ward v. Epting, 290 S.C. 547, 563, 351 S.E.2d 867, 876 (Ct. App. 1986).

5. The trier of fact must weigh and pass upon the credibility of the evidence presented. See South Carolina Cable Television Ass'n. v. Southern Bell Tel. and Tel. Co., 308 S.C. 216, 417 S.E.2d 586 (1992). The trial judge who observes a witness is in the best position to judge the witness' demeanor and veracity and evaluate his testimony. See e.g., McAlister v. Patterson, 278 S.C. 481, 299 S.E.2d 322 (1982).

6. Article X of the South Carolina Constitution provides the general framework for the assessment of property, and various statutes provide the specifics. Section 12-37-930 provides in part:

> All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.

S.C. Code Ann. § 12-37-930 (Supp. 2009). Fair market value is the proper measure of value of real property for *ad valorem* taxation purposes. Lindsay v. South Carolina Tax Commission, 302 S.C. 504, 507, 397 S.E.2d 95, 97 (1990).

7. Ordinarily, the taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year. S.C. Code Ann. § 12-37-900 (Supp. 2009). In this case, the tax year under consideration is 2008, which points to December 31, 2007 as the valuation date. However, the General Assembly enacted another statute that bears on the issue of the valuation date for the subject property:

> When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted and on which the assessment is based.

S.C. Code Ann. § 12-43-215 (Supp. 2009) (emphasis added). Charleston County's last countywide reassessment was conducted in 2004, so this statute points to December 31, 2003 as the operative date for determining value.

8. In an attempt to harmonize the statutory provisions and in accordance with the general rule that taxing statutes must be construed most favorably for the taxpayer and against the taxing authority, Ryder Truck Lines v. South Carolina Tax Commission, 248 S.C. 148, 152, 149 S.E.2d 435, 437 (1966), the Charleston County Assessor valued the property as of both dates

and gave the taxpayer the benefit of which valuation was lower. This Assessor valued the property as of December 31, 2007 and as of December 31, 2003. Both parties agree that the valuation as of December 31, 2003 is lower, so that date controls. Therefore, the determination to be made by this Court is the fair market value of the subject property as of December 31, 2003.

9. In order to determine the fair market value of the subject property as provided in S.C. Code Ann. § 12-37-930, it is necessary to first determine the property's highest and best use. While the parties agree that determining the property's highest and best use is the first step in determining fair market value, they do not agree on the highest and best use of the subject property.

10. The Appraisal Institute describes the methodology for determining a property's highest and best use as follows:

> There are four tests that a property must meet before its highest and best use can be determined. The use must be physically possible, legally permissible, financially feasible, and maximally profitable (i.e., create the highest economic value). The appraiser must apply each of these tests and discuss each in the appraisal report to justify the ultimate opinion of highest and best use.

Real Estate Valuation in Litigation, 2nd Edition 1995, The Appraisal Institute, p.105.

11 Additionally, the Appraisal Institute defines highest and best use as follows: "The reasonably probable and legal use of vacant land or an improved property, that is legally permissible, physically possible, appropriately supported, financially feasible, and that results in the highest value." Appraisal Institute, The Appraisal of Real Estate 278 (13th ed. 2008). This definition applies specifically to the use of the land. However, South Carolina law recognizes that in cases where a site has existing improvements on it, the highest and best use may be different from the existing use.

12. Assessor 's expert discusses the highest and best use criteria in his Appraisal Consulting Report, which states that the elements are typically analyzed in the following sequence:

1. Legally permissible uses are considered. These result from such limitations as those imposed by private deed restrictions, zoning, building codes and environmental regulations.

2. Physically possible uses are considered in terms of the site size, shape, land area and topography. Also considered was the availability of public utilities.

3. Financially feasible uses are those uses that meet the conditions imposed by the two previous criteria and which may be expected to produce a positive financial return.

4. Maximally Productive use is that which among the highest financially feasible uses provides the highest rate of return, or value (given a constant rate of return). The use that provides the highest rate of return or value to the land is the highest and best use as if vacant, if the buildings still contribute to the site, the use that provides the overall greatest return or value is the highest and best use as improved.

Alternative uses that satisfy steps one, two and three are compared in step four to arrive at the maximally productive use, which is the highest and best use.

13. The parties agree through their experts that single-family condominium units and apartment units are physically possible on the subject property, and therefore, the physically possible prong of the four-prong test is satisfied. However, with respect to the legally permissible prong of the four-pong test, the Taxpayer believes that apartments are legally permissible, but single-family condominium units were not at the time of the 2004 countywide reassessment. Taxpayer asserts that as of December 31, 2003, the subject property was an apartment complex and could not be converted to condominiums and sold to third parties because the mortgage securing the HUD loan could not have been released. Therefore, Taxpayer contends the seller could not have conveyed marketable title to prospective buyers. The provisions in the mortgage referenced by the Taxpayer read as follows:

> That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed....
>
> and
>
> The indebtedness evidenced by this Note may not in any event, be prepaid in whole or in part prior to March 1, 2006. On or after March 1, 2006, Maker shall have the right to prepay in whole or in part....

14. It is undisputed that the 121 units at issue were not condominiums as of December 31, 2003, and Taxpayer argues that it was not legally permissible for the 121 units to have been condominiums as of December 31, 2003. Therefore, Taxpayer contends the hypothetical use as condominiums fails the first step of the highest and best use analysis, and thus, the potential use of the 121 units as condominiums by definition could not be the highest and best use.

15. On the other hand, the Assessor argues that the encumbrance is irrelevant (regardless of its legal effect) because at the time the Assessor reappraised the property in 2007, the provisions had expired, therefore they are no longer controlling. The Assessor contends that S.C. Code Ann. § 12-43-215 (Owner-Occupied Residential Real Property; Highest and Best Use; Appeals of Assessment Value) directs her to the last countywide reassessment date only to determine market value, not the point in time to determine the property's highest and best use. Section 12-43-215 provides in part:

> When owner-occupied residential property assessed pursuant to Section 12-43-220(c) is valued for purposes of ad valorem taxation, the value of the land must be determined on the basis that its highest and best use is for residential purposes. When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, *based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted* and on which the assessment is based.

S.C. Code Ann. § 12-43-215 (Supp. 2009) (emphasis added).

16. The Assessor's position requires the valuation of the 121 units based on a potential use that the parties concede was legally permissible as of December 31, 2007, and transports that legal classification back to December 31, 2003 for valuation purposes. Assessor's position requires the mixing and matching of the steps of the four-prong highest and best use test. Step one – whether the potential use was legally permissible – is to be applied as of December 31, 2007. Steps two, three, and four are to be applied as of December 31, 2003. This Court is not willing to adopt the Assessor's position on this issue. The Assessor's position does not give due consideration to the requirements of Section 12-37-930 that fair market value must reflect the uses and purposes for which the property is adapted and for which it is capable of being used. In Long Cove Home Owners' Ass'n, Inc. v. Beaufort County Tax Equalization Bd., 327 S.C. 135, 141, 488 S.C.2d 857, 861 (1997), the South Carolina Supreme Court interpreted this Section to say that "regardless of method used to determine true value, deed restrictions affecting the use of the land must be considered when determining value." (Quoting S.C. Tax Com'n v. S.C. Tax Board of Review, 287 S.C. 415, 339 S.E.2d 131 (Ct. App. 1985) (a lease affects the use of property and must be considered when valuing property)).

17. It is the duty of the courts to interpret a statute and to give it the effect intended by the legislature. State v. Landis, 362 SC 97, 606 S.E.2d 503 (Ct. App. 2004). The language used

should be given its plain and ordinary meaning without resort to subtle or forced construction to expand or limit the scope of the statute. Berkebile v. Outen, 311 SC 50, 426 S.E.2d 760 (1993). All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute. McClanahan v. Richland County Council, 350 SC 433, 567 S.E.2d 240 (2002). Our Supreme Court has held that where "the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. Hodges v. Rainey, 341 SC 79, 533 S.E.2d 578, 581 (2000). Also, when interpreting statutory language, a court should not concentrate on isolated phrases within the statute. "[T]he statute must be read as a whole and sections which are a part of the same general statutory law must be construed together and each given effect." (South Carolina State Ports Authority v. Jasper County, 368 S.C. 388, 629 S.E.2d 624 (2006). In this case, the plain and unambiguous language of the statute leaves no room for construction. While not expressly stated in Section 12-43-215, the assessment process is so intertwined with the valuation process that the legislative intent is clear. The property's fair market value must be based on the property's highest and best use on the valuation date, which in this case is December 31, 2003.

18. Furthermore, even if the Court accepted the Assessor's argument, which it does not, the Taxpayer asserts that the highest and best for the property on the date proposed by the Assessor (December 31, 2007) is still as apartments. According to the Taxpayer's expert, the market for condominiums declined substantially in the time since the subject property was converted in April 2006, and in his opinion, the property could only be used as rental apartments on December 31, 2007. Not because of the legal impediment, but because of market conditions. He cites the vast difference in the number of units sold in 2006 as compared to the number of units sold in 2007 as support for his conclusion. However, because this Court has already found that the date for determining the highest and best use is as of December 31, 2003, it will not delve further into this argument.

19. Relying on Tamsburg as support, the Taxpayer additionally argues that the subject property should be valued according to their *use* (as apartments) rather than how they are *titled* (as condominiums). However, having found that the highest and best use of the property is as

apartments rather than condominiums as urged by the Assessor, the Court finds it unnecessary to address Taxpayer's argument or Assessor's opposing argument.

20. As a final argument, the Taxpayer disagrees with the Assessor's methodology for valuing the 121 units as individual condominiums. Specifically, the Taxpayer contends that the Assessor's conclusions as to value are unsound because they rest on a faulty foundation – some of the sales comparables selected are significantly different from the subject property. And even if the valuations did not suffer from this fundamental flaw, Taxpayer argues that the valuations should be rejected because the Assessor failed to factor in the impact of single ownership on the value of the 121 units. Again, based upon the Court's earlier finding that the highest and best use of the subject property is as apartments rather than individual condominiums, the Court finds it unnecessary to address the Taxpayer's final arguments, or Assessor's arguments in opposition.

21. Based on the evidence presented during the hearing, there is no dispute between the parties as to the appropriate method for valuing the subject property as multi-family apartments. Both parties agree that the income method of valuation should be used. Using this valuation method, the Assessor's expert valued the subject property as apartments at $8,565,000 as of December 31, 2003. The Assessor's expert reached this value by dividing the net operating income of $729,182 by the capitalization rate of 7.50% which yields a value of $9,725,000. To this value, a deduction rate of 11.94% or $1,161,165 is applied.[6] Subtracting the reduction in value of the apartment complex of $1,161,165 from $9,725,000 renders a value of $8,565,000 for tax year 2008. In his valuation, the Taxpayer's expert, using the income approach, divided net operating income of $735,807 by a capitalization rate of 8.25% to value the subject property at $8,920,000 as of December 31, 2003. However, Taxpayer's expert valuation does not factor in the 11.94% deduction. After comparing the two values, I find that Assessor's value yields the highest rate of return when the subject property is valued as apartments.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

[6] The 11.94% reduction of value is based on Taxpayer's challenge of the 2005 tax year assessment. In that case, the Assessor valued the 200 unit apartment complex at $16,900,000 as of December 31, 2003; however after Taxpayer appealed, the Charleston County Board of Assessment Appeals reduced the value to $14,656,000. Neither party appealed. Using the appraisal from the 2005 appeal, the Assessor's expert used a pro rata technique to extrapolate a value for the 121 units involved in the case before this Court, and reduced that value to reflect the Board's reduction..

IT IS HEREBY ORDERED that the Assessor shall value the property owned by LMP Properties, Inc., consisting of 121 single family units and collectively known as The Legends at Mount Pleasant, at $8,565,000 for the 2008 tax year.

AND IT IS SO ORDERED.

SHIRLEY C. ROBINSON
Administrative Law Judge

October 11th, 2011
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 11 day of October 2011

By: Judicial Law Clerk

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Docket No. 2009-ALJ-17-0533-CC

Charleston County Assessor, ... Appellant,

v.

LMP Properties, Inc., ... Respondent.

PROOF OF SERVICE

I certify that I have served Appellant Charleston County Assessor's **Notice of Appeal** on LMP Properties, Inc. by depositing a copy of the same in the United States Mail, postage prepaid, on November 11, 2011, addressed to its attorney of record as follows:

Stanley C. Rodgers, Esquire
LAW OFFICE OF STANLEY C. RODGERS, L.L.C.
101 Queen Street, Suite 200
Charleston, South Carolina 29401
Attorney for Respondent

Jacinta M. DeJesus, Law Clerk
CHARLESTON COUNTY ATTORNEY'S OFFICE

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Charleston County Assessor, Petitioner, vs. LMP Properties, Inc., Respondent.	Docket No. 2009-ALJ-17-0533-CC **PREHEARING STATEMENT OF PETITIONER**

1. **The nature of this proceeding:**

The nature of this proceeding is an appeal of a decision of the Charleston County Board of Assessment Appeals dated November 10, 2009.

2. **Statutory provision(s) conferring subject matter jurisdiction to the agency and other applicable statues and regulations:**

The Administrative Law Court has subject matter jurisdiction pursuant to S.C. Code Ann § 12-60-10 et seq. Other applicable statutes include S.C. Code Ann § 12-37-930.

3. **The issues presented for determination:**

The issue is whether the Charleston County Board of Assessment Appeals erred in determining the fair market value for tax year 2008 for 121 condominium units.

4. **The action requested of the Court, if any:**

Petitioner seeks to have this Court reverse the decision of the Charleston County Board of Assessment Appeals and affirm the decision of the Charleston County Assessor.

5. **A brief summary of the facts to be presented at the hearing:**

Respondent LMP Properties, Inc. is a corporation existing under the laws of South Carolina. It owns a housing complex in the Town of Mount Pleasant and has since 2000. From 2000 until 2006, the property was an apartment complex and assessed as an apartment complex. It contains 200 units in 13 buildings located on a single parcel (Tax Map Parcel Identification No. 599-00-00-020). Each building has 14 to 16 units per building and the units were rented as multifamily units.

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In April 2006, Respondent subjected the property and all improvements to the South Carolina Horizontal Property Regime Act, S.C. Code Ann. § 27-31-10 et seq. as The Legends Horizontal Property Regime. By converting the apartment complex into The Legends Horizontal Property Regime, Respondent created 200 separate parcels, each with one residential unit. In tax year 2007, the Assessor acted on the filing of the horizontal property regime by creating 200 parcels each with one separate unit and each with a separate tax parcel identification number (Tax Map Parcel Identification Nos. 599-00-00-068–267).

In 2007, Respondent paid *ad valorem* property taxes on the unsold units, which were valued as condominium units. Respondent now has sold 58 of the 200 condominiums, leaving 142 unsold. Of the 142 units that are unsold, 21 are listed for sale and 121 are rented by Respondent. There are 80 one-bedroom condominiums; 96 two-bedroom condominiums; and 24 three-bedroom condominiums. A homeowners association was created at the time the property was converted to the horizontal property regime.

The nature of the proceeding involves assessment of Respondent's condominium units as separate condominium units or as rental units in an apartment complex. Respondent claims Lindsey v. S.C. Tax Commission, 302 S.C. 504, 397 S.E.2d 95 (1990) is controlling. The County contends Lindsey is not controlling. The County evaluated the factors in Lindsey, i.e., title to the units, financing, marketing, marketability, contiguity, locale, amenities, and location and contend the facts in the case before this Court are distinguishable from Lindsey. The County contends the fair market value is based on the units valued as condominiums, not as rental units.

6. **A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion:**

Petitioner anticipates filing a motion for summary judgment.

7. **A list of proposed witnesses and exhibits:**

Exhibits:

1. Appraisal prepared by the Charleston County Assessor
2. Exchange of Evidence to the Charleston County Board of Assessment Appeals
3. Decision of the Charleston County Board of Assessment Appeals

Witnesses:

1. Toy S. Glennon, Charleston County Assessor
2. Angela Sawadske, Charleston County Senior Staff Appraiser

3. John D. MacMurphy, Charleston County Commercial Specialist
4. An expert witness who remains to be determined

8. **A statement regarding the necessity for discovery, if any:**

Petitioner anticipates discovery pursuant to Rule 21 of the Rules of Procedure for the Administrative Law Court.

9. **The estimated length of the hearing:**

The estimated length of the hearing is one day.

10. **Any dates in the next one hundred twenty (120) days when you will not be available for a hearing:**

January 20, 2010
January 25, 2010
February 9, 2010
February 12, 2010 through February 17, 2010

11. **An email address where you can be reached:**

The following are e-mail addresses where the Petitioner can be reached:

jdawson@charlestoncounty.org;
bferrara@charlestoncounty.org;
bmitchell@charlestoncounty.org.

CHARLESTON COUNTY ASSESSOR

JOSEPH DAWSON, III, County Attorney
BERNARD E. FERRARA, JR., Deputy County Attorney
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(843) 958-4010

ATTORNEYS FOR PETITIONER

January 4, 2010
Charleston, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Charleston County Assessor, Petitioner, vs. LMP Properties, Inc., Respondent.	Docket No. 2009-ALJ-17-0553-CC **CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of Petitioner's **Prehearing Statement** upon Respondent LMP Properties, Inc. by depositing the same in the United States Mail, postage prepaid, on January 4, 2010 addressed as follows:

Leonard Krawcheck, Esquire
Krawcheck & Davidson
Post Office Box 1018
Charleston, South Carolina 29401

LMP Properties, Inc.
Attn: Ron Follmann
93 North Shelmore Drive
Mt. Pleasant, South Carolina 29464

Anne G. Zickefoose

ANNE G. ZICKEFOOSE, Paralegal
CHARLESTON COUNTY ATTORNEY'S OFFICE

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SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

CHARLESTON COUNTY ASSESSOR, PETITIONER, VS. LMP PROPERTIES, INC., RESPONDENT.	)	DOCKET NO. 09-ALJ-17-0533-CC RESPONDENT'S PRE-HEARING STATEMENT AND NOTICE OF APPEARANCE

TO: THE HONORABLE SHIRLEY C. ROBINSON; THE PETITIONER, CHARLESTON COUNTY ASSESSOR; AND JOSEPH DAWSON, III, ESQUIRE; BERNARD E. FERRARA, JR., ESQUIRE; AND BRADLEY A. MITCHELL, ESQUIRE ATTORNEYS FOR THE PETITIONER

Respondent's Response to this Honorable Court's Order for Prehearing Statements dated December 17, 2009 is set forth hereinafter:

1. The nature of this proceeding is the appeal of the decision of the Charleston County Board of Assessment Appeals dated November 10, 2009, a copy of which is attached hereto as Exhibit "A" and made a part hereof.

2. This Honorable Court has subject matter jurisdiction of this matter pursuant to Section 12-60-2540 and Article I, Chapter 23 of the Code of Laws of South Carolina 1976.

3. The sole issue in this matter is whether the Charleston County Board of Assessment Appeals erred in the valuation of the Respondent's real property for purposes of property taxes for the year 2008.

4. The Respondent respectfully requests that the Board's decision be upheld and affirmed.

5. Facts: The Legends is a multi-family community located on Highway 17 North in Mt. Pleasant, South Carolina 29466 consisting of thirteen (13) buildings containing two hundred (200) units. It was converted to a horizontal property regime upon the recording of the Master Deed on May 18, 2006 in Book D581, Page 12, RMC Office for Charleston County. Fifty-eight (58) units were sold to and are owned by individual owners, twenty-one (21) units are listed for sale by the Respondent, and one hundred twenty-one (121) units are rented. The method of valuing the 121 rental units owned by the Respondent is the issue which is the subject of this appeal. The 121 units have been maintained,

managed, and used exclusively for rentals since they were constructed in 2000. They have been advertised in apartment publications and leased by an on-site property manager without interruption since the year 2000. Because of the widespread collapse of the real estate market (the condominium market having all but disappeared) on or around October of 2007, the highest and best use of these units has been as rental units rather than as condominium units.

The South Carolina Supreme Court case of Lindsey v. Tamsburg, et al, 397 S.E.2d 95 (S.C. 1990) (the "Tamsburg Case") addresses the proper method of valuing units in this situation. The Court indicated that townhomes in a 45 unit multifamily project in Mt. Pleasant should be taxed as apartments since they were contiguous; were operated on a rental basis; and were unmarketable. The court held that use rather than title is the determining factor in valuing the units for tax purposes.

All the factors set forth in the Tamsburg Case exist in the instant case. The units are contiguous as they are in close proximity to each other and part of the same project. The units have been offered as rentals and rented continuously since the year 2000 and the units have been essentially unmarketable since the end of 2007.

6. At this time, Respondent does not anticipate filing any motions; however, Respondent reserves its right to file appropriate motions should such become necessary to protect the Respondent's interest.

7. (a) Proposed witnesses for the Respondent are:

   i. Ron Follman – Principal of Respondent
   93 N. Shelmore Drive
   Mt. Pleasant SC 29464

   ii. Frank A. Headley, Appraiser
   Marshall Dodds Company, Inc.
   PO Box 926
   Columbia SC 29202

   iii. Marilyn Follmann – Property Manager
   93 N. Shelmore Drive
   Mt. Pleasant SC 29464

   (b) Exhibits to be presented by Respondent are:

   i. Appraisal of Frank A. Headley dated October 19, 2009.
   ii. Recorded plat of the property.
   iii. Section 15 of the Master Deed for The Legends Horizontal Property Regime.
   iv. The Tamsburg Case
   v. Legal Definition of "contiguous" in Black's Law Dictionary.

vi. Photographs of the Tamsburg units.
vii. Rent rolls from 1/1/2006 to 1/1/2009.
viii. Advertisements for rent from Apartment Guide and Apartment Finder magazines.
ix. Apartment Guide billing history from 2002 to date and contracts.
x. Apartment Finder billing history from January 2006 to date.
xi. History of move-ins since 1/1/2006.
xii. Payroll year to date recap as of 12/31/2007.
xiii. No units were sold at The Legends in 2008.

8. Respondent does not anticipate the need for additional discovery; however, it reserves its right to request additional discovery should it become necessary to protect the interest of the Respondent in this matter.

9. Respondent estimates that the time needed for the hearing will not exceed two (2) hours. During the next three (3) months, Leonard Krawcheck will be unavailable on February 10, 11 and 12; March 3; March 12; and March 17, 18, and 19. Lydia P. Davidson will be unavailable January 28 and 29; and February 1 and 2.

10. Email addresses:

Leonard Krawcheck, Esquire: lk@krawdavlaw.com
Lydia P. Davidson, Esquire: lpd@krawdavlaw.com

The undersigned attorneys submit this Pre-Hearing Statement on behalf of the Respondent and simultaneously herewith submit a Notice of Appearance pursuant to Rule 8(B) of the Rules of Procedure for the Administrative Law Court.

Respectfully submitted,

December 30, 2009
Charleston, South Carolina

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BOARD OF ASSESSMENT APPEALS
November 10, 2009

CERTIFIED MAIL - RRR

LMP Properties, Inc.
Ron Follmann
93 N. Shelmore Drive
Mt. Pleasant, SC 29464

Re: PID#: 08/Various 121 BAA#: 08-0004 OWNER: LMP Properties, Inc.

Dear Mr. Follmann:

In accordance with your conference before the Charleston County Board of Assessment Appeals held on November 4, 2009, concerning the above-described property, the Board has directed me to advise you of its decision. Therefore, the Board's decision is outlined in the attached "Charleston County Board of Assessment Appeals Decision", dated November 10, 2009.

Either the owner or the Assessor may contest this decision of the Board to the South Carolina Administrative Law Court, Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, SC 29201, within thirty (30) days after the date of the Board's written decision. A copy of the Request for Contested Case Hearing must be mailed or delivered to the other parties at the same time. The written request must contain the following:

A. The name and address of the party requesting the hearing and the issue(s) for which the hearing is requested.

B. A copy of the County Board's decision from which the contested case is being requested.

C. The relief requested.

If the Board's decision is not appealed, the Assessor must certify the final value to the County Auditor for entry upon the property tax assessment rolls.

Yours very truly,

Lynn Carmody
Chair

cc: Members, BAA; Toy S. Glennon, Assessor; Joseph Dawson III, County Attorney

EX. A

CHARLESTON COUNTY
BOARD OF ASSESSMENT APPEALS
DECISION

Re:	OWNER:	LMP Properties, Inc.
	PID#:	08/Various 1231
	BAA#:	08-0004
	Date of Decision:	November 10, 2009

The Charleston County Board of Assessment Appeals met on November 4, 2009, for the purpose of hearing the above-referenced taxpayer's appeal from the Charleston County Assessor's assessment of the above-referenced property for tax year 2008.

The subject of this appeal is 121 rental condo units located at The Legends and owned by LMP Properties, Inc. There are 11 different plans that are under appeal. The Assessor was represented by Toy Glennon, Steve Everman and Angela Sawadske. Mr. and Mrs. Ron Follman, the property owners, as well as Frank Headley, Leonard Krawcheck and Lydia Davidson were also present.

Ms. Glennon started the meeting with the particulars of the Tamsburg case which was decided in the 1990's. To qualify under Tamsburg the following criteria must be met: 1) units must be deeded only for financing, 2) units must be contiguous, 3) units are not marketed and 4) units were in a bad location. In the case of The Legends, the condos have been continuously marketed and as 57 have been sold, the units are scattered throughout the complex. Also, Mt. Pleasant is a very desirable location. Mr. Everman stated there are sales of over 200 condominiums in the area, so there is a sales market currently. Mr. Sawadske estimated the value of the 121 units at $16,493,000 for tax year 2008. The values for the Plans are as follows:

Dogwood	$110,000	Azalea	$105,000	Azalea Elongated	$107,000
Magnolia	$134,000	Jasmine	$145,000	Jasmine Elongated	$155,000
Jasmine Garage	$175,000	Oleander	$157,000	Oleander Garage	$182,000
Camellia	$170,000	Camellia Garage	$S195,000		

These values represent reductions from the current values.

Mr. Follmann stated the complex was converted to condos in 2006 and 57 units sold; however, the 121 units on appeal have been managed and maintained as rental units. The highest and best use of these units is as apartments. Mr. Headley submitted that condominium projects use discounting techniques to determine value. The comparables of Heron Reserve and Sabal Palms west of the Ashley are examples of condominium projects that either had low sales or no sales or converted back to an apartment complex. His estimate of value is $7,602,367 for tax year 2008. Mr. Krawcheck discussed Tamsburg as it applied to The Legends:

0036

1) Contiguity – there are 13 buildings, 58 units have sold and there are still 121 rentals, 2) units are operated on a short-term rental basis, and 3) unmarketable – a unit did not sell in all of 2008. The income method should be used to value the subject if the Tamsburg test holds true and financing should not be a determining factor.

After carefully considering the information presented, the Charleston County Board of Assessment Appeals sets a Compromised Value of $10,090,500 for tax year 2008.

001/001 11/17/2009 THU 8:45 FAX

Floor Plan Values

	Current Value	Assessor Recommended	Board Value	Units	Total Value
1 Bedroom					
Azalea	$115,000	$105,000	$ 64,000	13	$ 832,000
Azalea Elongated	$120,000	$107,000	$ 65,800	10	$ 658,000
Dogwood	$120,000	$110,000	$ 66,500	33	$ 2,194,500
Magnolia Garage	$145,000	$134,000	$ 82,000	5	$ 410,000
2 Bedroom					
Jasmine	$175,000	$145,000	$ 89,000	2	$ 178,000
Jasmine Elongated	$180,000	$155,000	$ 96,000	1	$ 96,000
Jasmine Garage	$200,000	$175,000	$107,500	6	$ 645,000
Oleander	$182,000	$157,000	$ 96,000	38	$ 3,648,000
Oleander Garage	$205,000	$182,000	$ 112,000	1	$ 112,000
3 Bedroom					
Camellia	$205,000	$170,000	$ 104,500	9	$ 940,500
Camellia Garage	$230,000	$195,000	$ 125,500	3	$ 376,500
				121	$10,090,500

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

CHARLESTON COUNTY ASSESSOR, PETITIONER, VS. LMP PROPERTIES, INC., RESPONDENT.	DOCKET NO. 09-ALJ-17-0533-CC CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of Respondent's Pre-Hearing Statement and Notice of Appearance upon Petitioner, Charleston County Assessor, by depositing the same in the United States Mail, postage prepaid, or personally delivered the same, on December __, 2009, addressed as follows:

Joseph Dawson, III, Esquire
Bernard E. Ferrara, Jr., Esquire
Bradley A. Mitchell, Esquire
Lonnie Hamilton III Public Service Building
4045 Bridgeview Drive
North Charleston, SC 29405

The Hon. Toy Glennon
Charleston County Assessor
101 Meeting Street, Suite 300
PO Box 427
Charleston, SC 29402

LMP Properties, Inc.
c/o Ron Follmann
93 N. Shelmore
Mt. Pleasant SC 29464

Michele Hay

Transcript of the Testimony of
CHARLESTON COUNTY ASSESSOR V. LMP PROPERTIES, INC.

Date: August 24, 2010

CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index

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Columbia, SC 29201
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Internet: www.creelreporting.com

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION
Docket No. 09-ALJ-17-0533-CC

Charleston County Assessor,

Petitioner,

v.

LMP Properties, Inc.,

Respondent.

ADMINISTRATIVE HEARING
****
Tuesday, August 24, 2010
10:09 a.m. - 5:07 p.m.
&
Wednesday, August 25, 2010
10:10 a.m. - 3:54 p.m.

The hearing before The Honorable Shirley C. Robinson was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 24th and 25th days of August, 2010, before Gretchen H. Wise, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Bernard E. Ferrara, Jr., Esquire
Bradley A. Mitchell, Esquire
Joseph Dawson, III, Esquire
Jessica Deworth, Legal Assistant
CHARLESTON COUNTY ATTORNEY'S OFFICE
4045 Bridge View Drive
North Charleston, South Carolina 29405-7464
Attorneys for the Petitioner

Stanley C. Rodgers, Esquire
LAW OFFICES OF STANLEY C. RODGERS, LLC
101 Queen Street, Suite 200
Charleston, South Carolina 29401
Attorney for the Respondent

Also Present:

Frank Headley

OWNERS OF LMP PROPERTIES, INC.:
Ronald W. Follmann
Marilyn Follmann

CHARLESTON COUNTY ASSESSOR'S OFFICE:
Toy S. Glennon
Angela Sawadske
Stephen Joseph Everman
Gary James

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1230 Richland Street / Columbia, SC 29201
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STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Judge Division and the South Carolina Rules of Civil Procedure.

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(Petitioner's Exhibit Numbers One through Nine, including Seven A and Seven B, were marked for identification purposes prior to the hearing.)
Respondent's Exhibit Numbers One through Ten were marked for identification purposes prior to the hearing.)
THE COURT: Okay. We're ready to begin. My name is Shirley Robinson and I'm the Judge that's been assigned to hear this case. It is the case of, the title on the docket is Charleston County Assessor as the Petitioner versus LMP Properties, Incorporated, as the Respondent. It's Docket Number 09-ALJ-17-0533-CC. And the dispute that's at issue in the matter before the Court is whether or not Respondent's property should be taxed as separate condominium units or as rental units in an apartment complex, is what we've got here, is that correct?
MR. FERRARA: That is correct, Your Honor.
THE COURT: Okay. Are there any pre-hearing matters that need to be addressed before we proceed with opening statements?
MR. RODGERS: I don't think so, Your Honor.
MR. FERRARA: None from the appellant, Your Honor.

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THE COURT: Okay. That being the case, we will proceed with opening statements beginning with statements, a brief opening from the Petitioner.
MR. FERRARA: Thank you, Your Honor.
THE COURT: And also, I'm sorry, I did not present the attorneys. I think we've got --
MR. FERRARA: I'll be happy to do that, Your Honor.
THE COURT: Yes, please.
MR. FERRARA: Judge Robinson, my name is Bernie Ferrara. I'm the deputy county attorney for Charleston County. Also with me today is Joe Dawson. He is the county attorney for Charleston County, and Bradley Mitchell, the assistant county attorney for Charleston County, all of whom will be participating in this trial. Also with me today are some representatives from the assessor's office. I have Toy Glennon, the assessor. I have Gary James, a commercial real estate appraiser. I have Steve Everman, another commercial real estate appraiser. I have Angela Sawadske, a residential real estate appraiser, and Jessica Deworth, a legal assistant, paralegal/do it all in the assessor's office.

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THE COURT: Okay. Thank you, Mr. Ferrara.
MR. FERRARA: Your Honor, as you stated -- oh, I'm sorry. Go ahead.
MR. RODGERS: Good morning, Your Honor. I'm Stanley Rodgers. I'm representing the Respondent, LMP Properties, Incorporated. Ron Follmann and his wife, Marilyn Follmann, they own LMP Properties, the Respondent.
THE COURT: Okay. Now, we've also got listed here Lydia Davidson and Leonard Krawcheck.
MR. RODGERS: Yes, Your Honor. They were involved below, but they're not going to participate in the trial. They are two lawyers who presented the case before the Board of Assessment Appeals. I got involved after that and I'm going to be handling the trial.
THE COURT: Very good. Thank you, Mr. Rodgers.
OPENING STATEMENT - BY MR. FERRARA:
MR. FERRARA: Thank you, Your Honor. As you stated, the issue on appeal, I'm just going to -- if you'll give me eight to ten minutes to go through my opening, it is going to be somewhat lengthy on that end. But again, this case is an appeal from a decision of the Charleston County Board of Assessment Appeals dated

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November 10, 2009. The decision of the Board neither affirmed the assessor's value of $16,493,000 or the Respondent's value of $7,602,367 of 121 single family residential condominium units that are located in The Legends of Mount Pleasant in Charleston County, South Carolina. The Board set a compromised value of those units at $10,090,500 for tax year 2007. Charleston County appealed the decision of the Board claiming the Board's value is too low and by arriving at a compromised value, it didn't take into consideration the correct methodology to arrive at the value but just set the value using some high, low arbitrary sort of methodology. Again, the issue in this case is whether the highest and best use of the 121 single family residential condominium units is as a single family residential condominium complex or as a 121 apartment complex with a date of value as of December 31, 2003. The facts of the case are these, and while I'm stating the facts, we have on the board for you the website from The Legends, love The Legends, love the lifestyle, love The Legends, love the litigation -- I'm

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sorry, that's not up there. But as I go through the facts --

MR. RODGERS: That's a good home for lawyers.

MR. FERRARA: We'll -- if Jessica would just follow with me and, whenever I get to a section, we can go through the website and show you all what we're talking about. Your Honor, the subject of this appeal is, again, 121 single family residential condominiums located in Mount Pleasant, South Carolina. The last recorded transaction of the property as a whole was April 19, 2006, whereas Keystone Legends I Limited Partnership conveyed as grantor to the grantee, Respondent, LMP Properties, property for five dollars and the assumption of a mortgage. Ronald Follmann, who was introduced earlier, is the registered agent and the president of LMP Properties, Inc. Keystone Legends, Incorporated -- strike that. Keystone Legends I Limited Partnership entered a mortgage in the principal amount of $15,891,900 in 1999 to build this complex, okay. And that complex consisted of about 13 buildings with 200 units as an apartment complex. The property was valued by the assessor as a 200

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unit apartment complex as of December 31st, 2001, for the tax year 2002 at a value of $11 million and there was a cap rate applied to it of 8.4 percent. There were then some appeals. There's a history of appeals in this property, that being one where we arrived at a value of the apartment complex back in -- for tax year 2002. Let's fast forward to tax year -- I mean, to 2006. Subsequent to the property being valued as a 200 unit apartment complex, Mr. Follmann, LMP Properties submits the 200 units pursuant to the South Carolina Horizontal Property Regime Act that's codified as 27-31-10 et seq. and classified the properties as The Legends Horizontal Property Regime. There's a master deed which will be submitted into evidence and talked about during this trial, but the submission to the horizontal property regime was take the apartment complex from one tax map parcel number and split it out into 200 separate TMS numbers for 200 single family residential condominium units; 200 tax bills. Not one tax bill back in 2001, 2 and 3 and 4 and 5. So, and that occurred in April of 2006, and at the same time, LMP Properties entered a

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mortgage with the National Bank of South Carolina in the principal amount of $18 million secured by the 200 single family residential condominium units as the security for the mortgage. By converting the former apartment complex as The Legends of Mount Pleasant into the horizontal property regime known as The Legends Horizontal Property Regime, again, Respondent created 200 separate single and distinct condominium units. And again, by the filing of the horizontal property regime, the assessor created 200 tax bills, 200 separate tax identification parcel numbers, and each of the condominium units can be conveyed fee simple ownership. After creation of the horizontal property regime, Your Honor, Respondent began placing groupings of the units on the market for sale. And during 2006, 44 condominium units were sold. During 2007, 13 condominium units were sold. Respondent appeals. Up to the point of appeal, 57 units were sold. One has subsequently sold between 2008 and 2009, so, of the 200 units, 58 single family residential condominium units have sold leaving a balance of 142 unsold condominiums.

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Respondent has appealed 121 of those units and placed 21 units aside for further marketing and for sale. The subject of this appeal are those 121 condominium units. The amenities of The Legends are impressive, Your Honor. The amenities include this beautiful pool and cabana with a fountain. It has a fitness center, tennis courts. A resident business conference center, I'm not sure if that is up there. Controlled access gates, a car care center, a boat storage center. So this is -- and it's being advertised on the website as an upscale condominium community, Mount Pleasant, South Carolina. The property is located adjacent to the Charleston National Country Club and Golf Course, also a nice area of Mount Pleasant on Highway 17 heading out between the Mount Pleasant and McClellanville, if you're familiar with the area. The property is located within the Cario Middle School and the Wando High School districts, both schools of which were recently built within the last ten years, a very -- an area that has seen constant and consistent growth. The property is located two miles from the Oakland Shopping Center,

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another upscale shopping center, and five miles from the Mount Pleasant Town Center, which is a 500,000 square foot plus shopping, upscale shopping area in Mount Pleasant. And the property is located ten miles from the Isle of Palms, which is the beach. What Respondent is asking Your Honor to do is to have this Court value the 121 single family residential units not as condominiums but as 121 apartments. What is Your Honor's standard of review? What's the standard of review for this Court? The assessor's valuation -- we have the burden of proving that our valuation is the correct valuation. Our valuation is presumed correct, and that's the Newberry Mills case and the Floyd v. Mabry case. We'll be glad to serve those up to Your Honor at the end of the trial. But the taxpayer then bears the burden of proving that our valuation is incorrect. And how does the taxpayer do that? The taxpayer does that with other evidence, and if the other evidence is clear and convincing, then he -- the taxpayer can overcome that presumption of correctness and seemly obtain the results that the Respondent is seeking. But Charleston

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County contends that the taxpayer is not going to be able to make that showing and that the Board did not consider the highest and best use of the property in arriving at its compromised value and the taxpayer is not going to be able to overcome that presumption of correctness. What's the evidence that we're going to present to Your Honor today? We have, essentially, three reports. The first report you're going to hear is the valuation of the 121 condominium units. They're split out as one bedroom, two bedroom, three bedroom units, and then there are various models within that category of bedrooms. So you're going to hear, initially, what are the values of those condominium units. Then you're going to hear from one of the appraisers. If the highest and best use of the property is as an apartment, we're going to tell you what the data is for sales -- I'm sorry, strike that -- if it's rental income, the expenses and arriving at information to conclude that this would be the ultimate value as an apartment complex. And then we're going to have another appraiser take the stand and talk to you about the highest and best use.

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What is the highest and best use of this property? Is it as a condominium complex with 121 single family residential units or is it as 121 apartments? And, Your Honor, the evidence are going to show, essentially, four key issues of how the assessor's reports are distinguished from Respondent's reports, and I'm going to go over each of those four items which are going to have this recurring theme throughout the trial. The first key issue is, in order to determine fair market value, you first must determine what is the highest and best use of the property which, in and of itself, is a four part test. I submit to you, Your Honor, Respondent ignored that methodology, ignored arriving at the highest and best use of the property. The second key issue is, Respondent treats the entire subject property of 121 single family residential units as an entire 200 unit condominium complex, whereas the county treats it as 121 single family condominiums as a group, not as 121 single family condominiums as an apartment complex. We treat them as if they would be sold and marketed separately, which is what they are.

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Twenty-one of them are currently being marketed for sale as speak. The third key issue that distinguishes the assessor's position from the Respondent's is, in arriving at its value, in arriving at the market value of the property, the Respondent considers the market conditions of 2007, 2008, but we have a date of value of December 31st, 2003. You can't look at conditions four years or five years out. You've got to look at conditions as they were retrospectively in 2003. You can't mix and match, you've got to be consistent with what you analyze. And Respondent mixes and matches and doesn't look at all of the market conditions as of 2003. He looks at comparables in 2003, but market conditions in 2007. The fourth key issue is, Respondent uses a methodology called discounted cash flow to determine the value of the 121 single family residential condominiums. I submit to you, Your Honor, this methodology called discounted cash flow is not a methodology to arrive at value. It is a methodology to test value, not to arrive at value, but to test the value to arrive at the highest and best use, whether

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it's as condominiums or as apartments. Respondent uses this methodology to arrive at value. We submit that that's not the correct methodology. Those are the four key distinctions between the assessor's reports and the Respondent's reports. There are two areas where I think we agree. We haven't stipulated to any kind of agreement, but I will submit, Your Honor, when you hear the county's analysis of as if the property was considered highest and best use as apartments, the income data, the expense data, we believe is so close to what the Respondent's data is that I think we're only a couple of hundred thousand dollars apart. I believe the Respondent's data reflects something in the neighborhood of $8,920,000. We had a value that comes in at $8,565,000. So we're very close on that, but we haven't come to any kind of agreement that they will share our numbers. But if need be, we'll go over the Respondent's value of the apartments in that regard. The second similarity is that, when we get to the valuation of the 121 separate and distinct condominium units, throughout their report,

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they agree that our values are reasonable, they agree that our values are consistent. While they haven't said they're going to endorse our values, they agree that those are reasonable values, so and they use some of our data to arrive at their analysis as condominiums. So those are two similar issues for Your Honor. Your Honor, the key to this whole trial is reflected on page 88 of the -- I'm sorry, page 80 of -- sorry. The key to this whole trial is reflected on page 84 of one of our consulting reports and it is marked as Petitioner's Exhibit Eight and I want to just show it to Your Honor. It's a feasibility study to arrive at highest and best use of the property. And here it is up on the screen, Your Honor. And after the end of the day, feasibility of an apartment use, not as the value of it, but the feasibility, financial feasibility of an apartment use is $8,565,000, and the feasibility of a condominium use is $13,800,000. Because the feasibility as a condominium is highest, we conclude that the highest and best use of the property is as a condominium, is as condominiums. The second

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most important document you're going to see today, Your Honor, is page 85 of that same report, and it's kind of small on the screen, but that is the breakdown of the 121 single family units. So, once we decided the highest and best of the property is as 121 single family residential condominium units, we valued each of the units. There are four models of one bedrooms, condominiums, with a value between $105,000 and $134,000. There are 61 of those. There are five models of two bedroom units valued between $148,000 and $175,000. There are 48 of those. There are two models of three bedroom units valued at $170,000 to $192,000. There are 12 of those. That totals 121 units. Totally, that comes up to $16,454,000, but that's not what we're asking, Your Honor. We're asking that you affirm those values on that chart. Your Honor, the Respondent is not going to be able to overcome the presumption of correctness, but at close of the evidence, the county is going to request that you return a ruling setting the values of the 121 single family residential condominium units as reflected on that page. Thank you,

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Your Honor.
THE COURT: Thank you. Mr. Rodgers.
OPENING STATEMENT - BY MR. RODGERS:
MR. RODGERS: May it please the Court. The critical issue for you today is what is the fair market value of these 121 units. The very first question that you have to address in answering that bigger issue is when; fair market value as of what date? This is the appeal of the 2008 tax year assessment. The lien date for any particular year is the last day of the previous year. So, for 2008, the lien date for taxes is 12/31/07. So we look at that date. And then there's another part of the South Carolina Code that says, in an appeal of an assessment, like this situation, you also look at the date of the last countywide reassessment. For Charleston County, that's 12/31/03. So you've heard those two dates and that's the reason we talk about those two dates. 2008 tax year appeal, we look at 12/31/07, and then we also look at the date of the reassessment, 12/31/03, and value it as of those dates. And the county agrees with that position. They value the property as of those dates and then they give

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the lower value to the taxpayer. That's the way they've done it in this case. I think that's the way they've done it in every other case like this. And my understanding this morning is, that's still the way they do it and that's the way they're going to do it here today. So we look at those two dates to determine which one is lower, and then that would be the value that applies. The second question, how do we determine the fair market value? Well, first, we look at the fair market value as of what date. And the second issue is how; how do you determine it? What is the methodology that you use? There are two primary ways, income approach and sales comparison approach. The question is, you have 121 units. Do you take those 121 units and value them as a group as they're being used like an apartment complex? And if you do it that way, you use the income approach. I think they'll agree that's -- well, that's the primary way. The best way, when you're valuing an apartment complex, is to use the income approach. Or do you value them as 121 separate individual units like a separately owned

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condominium that's used by a person for a residence or a single family residence? If you do it that way, it's individual units and the primary mechanism used to value them is a sales comparison approach. You go out and you find comps that are similar and try to come up with a value that way. We contend that these units, these 121 units, from the time they were built, they were built as an apartment complex; they were used as an apartment complex. These 121 units, from that time through 12/31/03, through 12/31/07, every date in between, every date before, every time after, they've always been used as apartment units. We -- our position is, you should value them the way they are used, as apartment units. Their position is, no, the filing of the master deed changed the title, the way the property is titled, no longer a single owner but now it's the same owner owns 121 different units; those are the ones that are on appeal; and so the property should be valued individually, you should take the individual units and do it by the sales comparison approach. The assessor assessed that property using that method and came out

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with a value. We challenged it; we appealed. It went to the Board of Assessment Appeals in Charleston. And the county's position before then was consistent with what they've told you today, we value it individually, and when we do that, the total value of 121 units is $16,454,000, based primarily on a sales comparison approach. Our position was that's not fair; that's not the way -- that's not the way to determine the fair market value in this case. Fair market value should be used by looking at how these units are used. They're used as a group. They are rented as apartments and should be valued as apartments, and when you value them that way using the income approach, you end up with a value around eight million. We say a little -- we said a little less than that. I heard in the opening, they say it's a little more, eight and a half million. I agree with them, that's not much of a distinction. But it depends on which approach. There is a big distinction in how -- which approach you're going to use. The Board of Assessment Appeals heard the evidence and issued a ruling where they laid out the values

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for each unit, a reduced value from what they had suggested, drew a line, and said what that adds up, which is $10,090,000. So six million off of their number; a couple million off of our number. And that seemed to be the compromise position that they reached. Charleston County has appealed that decision; that's why we're before you today. Circling back, the issue before you, part of it is, what's the methodology. The ultimate issue, though, is, what is what is the fair market value of these 121 units. And the end date that we're going to end up focusing on is as of 12/31/03. Thank you, Your Honor.

THE COURT: Mr. Ferrara, you can begin calling your witnesses.

MR. FERRARA: I'm going to have Mr. Mitchell direct the next --

THE COURT: Mr. Mitchell, okay.

MR. MITCHELL: Your Honor, we're going to call Angela Sawadske.

THE COURT: Ms. Sawadske.

MR. MITCHELL: And the Court's indulgence while I set up the machine.

THE COURT: Ms. Sawadske, before you take your seat,

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if you'll face the court reporter, she will swear you in.

ANGELA SAWADSKE, having been duly sworn, testified as follows:

MR. MITCHELL: May it please the Court.

THE COURT: Are you ready?

MR. MITCHELL: Yes, ma'am.

MS. SAWADSKE - DIRECT EXAMINATION BY MR. MITCHELL:

Q: Good morning.

A: Good morning.

Q: We're going to start off with your testimony today by introducing yourself to the Court. Can you just tell us your name and where you live.

A: Angela Sawadske and I live in Charleston.

Q: And where are you currently employed?

A: Charleston County Assessor's Office.

Q: And how long have you worked there?

A: Seven years.

Q: And what is your current position there now?

A: Senior staff appraiser.

Q: Have you always been a senior staff appraiser?

A: No, I started out as a staff appraiser and worked up.

Q: Okay. What is your duties as a senior staff

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appraiser?

A: To appraise residential properties, some agricultural properties, track sales.

Q: To be in the position that you have there in Charleston County, do you have to certified in any manner?

A: Yes.

Q: And what certification do you have?

A: I'm a certified residential appraiser.

Q: And so I'm assuming that you have been certified?

A: Yes.

Q: And how long have you held that certification?

A: 2006.

Q: Since 2006.

A: Uh-huh (affirmative response).

Q: Okay. Let's talk a little bit about your educational background. Do you have any post-graduate work or college?

A: I have a bachelor of science from the College of Charleston.

Q: And what is that bachelor of science in?

A: Sociology and criminal justice.

Q: Okay. And outside of your bachelor's degree in sociology and criminal justice, have you taken

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any other courses, certification courses, just anything that relates to the --

A: All appraisal classes, yes.

Q: Okay. Now, let's go into why we're here today. Are you familiar with The Legends?

A: Yes.

Q: And how are you familiar with The Legends?

A: I originally appraised them as individual condo units.

Q: Okay. I'm going to show you three multi-page documents, and I think you have the book in front of you.

MR. MITCHELL: Your Honor, may I approach?

THE COURT: Sure.

Q: If you look at the orange tab, right behind the orange tab is the first document. Do you recognize that document?

A: Yes.

Q: And what is that document?

A: That is my appraisal of the one bedroom unit as of December 31st, 2003.

Q: Okay. Behind that, there's a blue separator and there's a second document. Do you recognize that document?

A: Yes.

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Q: And what is that document?
A: That is my two bedroom unit appraisal as of December 31st, 2003.
Q: Okay. Again, there's a blue separator and there's a third document.
A: Uh-huh (affirmative response). Yes, that is my three bedroom appraisal as of December 31st, 2003.
Q: Okay. If you go back to the first document, and it should be the same for all three, on page eight, in the upper right-hand corner, down in the lower corner, it looks like a signature. Is that your signature?
A: Yes.
Q: Can you look at page eight on the second and third documents and verify that is your signature?
A: Yes, they are.
MR. MITCHELL: Your Honor, at this time, I'd move that these documents be admitted as evidence as Petitioner's One, Two, and Three.
MR. RODGERS: No objection.
THE COURT: Thank you. It's admitted with no objection.
(Petitioner's Exhibit Numbers One, Two, and Three

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were admitted into evidence.)
Q: Okay. Now, let's talk about these appraisals. Now, when you get appraisals, somebody assigns that to you, correct?
A: Right.
Q: And what was your assignment on these?
A: To appraise them as individual condo units.
Q: Okay. In general terms, I just want to talk about in general, The Legends itself and then we'll get down into specific one bedroom and two bedroom. Can you describe the property?
A: Yes. The Legends consists of 13 two-story buildings. They consists of the condo units. It also has a clubhouse with a swimming pool, tennis court, fitness center, a little play park for the children, the carwash station, and it's also a gated community.
Q: Now, you heard Mr. Ferrara, he was talking about just the location in Mount Pleasant. Can you talk a little bit about that?
A: Yes. Well, Mount Pleasant, it's located close to the beaches. It's located close to the shopping centers. It's been a very stable market with good growth rates. It's a very desirable location.

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Q: Okay. Have you visited the site?
A: Yes.
Q: How many times?
A: Probably three.
Q: Okay. So you're familiar with The Legends as it's laid out and everything?
A: Yes.
Q: And do you have to know that for your appraisal practices?
A: Yes.
Q: Now, let's talk about individual units, because, like I said before, there's one bedroom, two bedroom, and three bedroom, and also, within the one bedroom, two bedroom, three bedroom, there's different floor plans. Can you talk about the different one bedroom floor plans and the two bedroom floor plans and with each individual home that comprises these 121 units?
A: Yes. The one bedroom units, there are four different one bedroom floor plans. The Dogwood is one, the Azalea, Azalea Elongated Plan, and the Magnolia.
Q: And so, when you were doing your appraisals, you did on the one bedroom, as we saw as

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Petitioner's Exhibit One. And then at some point you determined the value for both -- for all the different --
A: Right.
Q: -- floor plans, correct?
A: Right.
Q: Okay. Which date of value did you use on these appraisals?
A: December 31st, 2003.
Q: Okay. And we discussed a little bit what your assignment was, but let's talk about, what was the purpose of the appraisals?
A: Once they had the horizontal property regime filed, they were all issued different parcel numbers and it was given to me to appraise for individual condo units based on the value -- date of value of December 31st, 2003, because that was the last date of -- the date of the last reassessment.
Q: Okay. The report reflects what kind of value?
A: Market value.
Q: So fair market value?
A: Right.
Q: And as we talked about in the opening statements, we talked about different

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approaches. What approaches did you use?
A: I used the income approach and the sales comparison approach.
Q: And when you're valuing these properties, and we'll get more into those two different approaches when we get down into each individual unit, what were you valuing? What was the -- what were the property rights that you were valuing?
A: Fee simple ownership.
Q: Okay. Now, let's -- because this is still in general, let's talk about the market surrounding area. Can you tell us about the market and description? It should be on -- I direct your attention to page four of your report.
A: Okay. It's a -- it was -- the built up rate was between 25 and 75 percent. It's got a stable growth rate, stable property values. The supply and demand was in balance, and the marketing time was approximately three to six months.
Q: Okay. Let's talk about the project site description itself. What was the actual use on the date of value?

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A: On the date of value, it was an apartment complex.
Q: And that date of value was?
A: December 31st, 2003.
Q: Okay, now, what is it -- was it used as when you conducted these appraisals?
A: Condominium units.
Q: Okay. Can you talk a little bit about the common elements or amenities? I know you brushed on them briefly. Can you add a little more description?
A: Yes. Again, it has the privacy gated entry, the swimming pool with the fountain, the fitness facility, the tennis courts, a business center, a laundry room, a car care center, and a play park.
Q: And a play park?
A: Yes.
Q: Now, you've valued other condominium -- have you valued other condominium units?
A: Yes.
Q: Throughout Charleston area?
A: Yes.
Q: Did they have similar amenities?
A: Similar but not as good.

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Q: Excuse me?
A: Similar but not as good.
Q: Oh, so they had similar, other condominiums units that --
A: Other condo complexes have, you know, a swimming pool and maybe a tennis court, but these are certainly superior amenities to other condo complexes that I've been to in the area.
Q: Okay. Now, let's talk about the one bedroom unit itself, and we'll start drawing our attention directly to there. And we discussed that there was how many different types of floor plans?
A: Four.
Q: And which one did you appraise for this appraisal?
A: For this appraisal, I chose the Dogwood plan.
Q: The Dogwood plan. Now, we've talked a little bit about the different approaches, you know, we were -- you said you used two different approaches. And those two approaches were?
A: The income approach and the sales comparison approach.
Q: And can you talk to us a little bit about the income approach?

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A: Sure. The income approach, for smaller residential rental properties, it's common to use a gross rent multiplier to determine the value. Basically, that multiplier, you get that from taking the sale price of a property and dividing it by the amount of monthly rent that the property gets. That gives you a multiplier, which basically breaks down to how many months it will take you to recoup your initial investment. So, with the income approach, I took the market rent and multiplied it by the multiplier to give me a value.
Q: Now, what about the second approach?
A: The sales comparison approach, you take sales of comparable properties and adjust them for any differences that they have from the subject property.
Q: Okay. Now, if I can draw your attention to page six, and I do believe it's up on the screen.
A: Uh-huh (affirmative response).
Q: And you see where it talks about the income approach. What did you determine the fair market value would be if you utilized the income approach?

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A: $105,000.
Q: Okay. Now, let's move on to the sales comparison approach. That should be on the next page. Now, can you talk a little bit about the different comparables that you utilized here?
A: Yes. In 2003, first of all, this didn't exist as a -- as a condominium complex, so I have no comparables from the actual subject property. So I had to go out and try to find similar one bedroom units to the subject. There were no one bedroom condo unit sales in the Mount Pleasant area for 2002 or 2003. So my first comparable was sold in 2004, and I took out the appreciation to reflect that time difference. But I used comparables from other areas and then adjusted them down to -- or adjusted them for the differences from the subject.
Q: So down here at the -- down here at the bottom, I direct your attention. That value reflects what?
A: That value reflects --
Q: That's your adjusted -- is that your adjusted value for that comparable?
A: No, the one on the screen is not the --

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Q: The one on the screen.
A: No.
Q: If you look down --
A: The one -- what you have on the screen is different from what I have on the screen.
Q: It sure is.
A: I mean, what I have on the page.
Q: Let's look at page seven that I handed out. And down at the bottom, it should say -- if you'd refer back to your book, please.
A: On the bottom of page seven, my sales comparison approach value came out to $110,000.
Q: Okay. So now you've got two numbers. You've got your income approach; you've got your sales comparison approach.
A: Right.
Q: How do you determine which number to use to determine fair market value?
A: Typically, on a residential property, I go with the sales comparison approach. It's supported by my income approach, but, quite frankly, I don't know whether these properties are going to be used as primary residence if they're going to be used as a rental property. So I go -- I put more weight on the sales comparison

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approach.
Q: So what did you determine the value for the one bedroom Dogwood home to be?
A: $110,000.
Q: Okay. And here in a couple minutes, we're going to talk about how you extrapolated that information for the other floor plans. But first, let's move on to the two bedroom apartments. And that should be your second report there. And I think we're -- just for the ease and time constraint, we're just going to jump into your income approach analysis and your sales comparison approach analysis because we're already discussed many of the items here. Can you lay out your income approach analysis?
A: Yes. I used a monthly market rent of $975 times the gross rent multiplier of 150 and the income value that I came up with was $146,250.
Q: Okay. And your sales comparison approach?
A: On the sales comparison approach, I came out to $148,000.
Q: Okay. Again, you have these two numbers, could you explain for the Court?
A: Yes. Since it's an individual property, it could be a legal residence or it could be a

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rental property. And the values are so close, I chose the $148,000 as my reconciled value.
Q: So that value is for the two bedroom Jasmine --
A: Yes.
Q: -- home, correct?
A: Yes.
Q: Let's move on to the three bedroom. And your fair market value determined by the income approach for the three bedroom apartment?
A: The income and the sales comparison approach. The income, I used the monthly market rent of $1,150 a month and multiplied by the multiplier, 450, which gave me my income value of $172,500.
Q: Okay. And the sales comparison approach?
A: I came out to a value of $170,000.
Q: Now, I want to draw your attention to the very first set right behind the orange tab. It should be the second page. The upper right-hand corner should say page two.
A: Uh-huh (affirmative response).
Q: This right here reflects -- in your report, what does reflect, this page?
A: This reflects all the different values for all of the different plans.

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Q: So you have one bedroom unit, correct?
A: Correct.
Q: And there's how many different floor plans?
A: There are four different one bedroom floor plans.
Q: And what was the recommended 2003 values for the Azalea plan?
A: The Azalea plan was $105,000.
Q: And how many different floor plans were available at The Legends?
A: Four.
Q: Excuse me. Let me rephrase that. How many different -- I mean, how many Azalea plans were available?
A: Oh, there's two Azalea plans.
Q: Okay. And of that two Azalea plans, how many total condominiums fall into the category of Azalea plan or Azalea Elongated?
A: Like how many Azaleas were there?
Q: Yes.
A: Okay. There were 13 Azaleas plans.
Q: And the Azalea Elongated?
A: There were ten of those.
Q: And what was your recommended value?
A: $107,000.

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Q: And the Dogwood plan?
A: There were 33 units.
Q: And how many?
A: Thirty-three.
Q: What was the value?
A: $110,000.
Q: And the Magnolia Garage plan?
A: There were five of those.
Q: And what was your -- what did you determine the value to be?
A: $134,000.
Q: And if you look below that, is the two bedroom.
A: Uh-huh (affirmative response).
Q: And the Jasmine plan, how many were there?
A: There were two.
Q: And your value there?
A: $148,000.
Q: And Jasmine Elongated?
A: There was one.
Q: And what was your value?
A: $156,000.
Q: Jasmine Garage plan?
A: There were six.
Q: And what was your fair market value determined?
A: $170,000.

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Q: The Oleander plan?
A: There were 38.
Q: And what was the value?
A: $157,000.
Q: And Oleander Garage plan?
A: There was one.
Q: And what did you determine the fair market value to be of that plan?
A: $175,000.
Q: And you move down to the three bedroom units. There appears to be two plans that you have indicated here, and there's Camellia plan, and there are how many?
A: Nine.
Q: And what did you determine the fair market value of those nine to be?
A: $170,000.
Q: And the Camellia Garage plan?
A: There were three.
Q: And what did you determine those values to be?
A: $192,000.
MR. MITCHELL: Court's indulgence. Thank you. Your Honor, I have no more questions of the witness.
THE COURT: Okay. Mr. Rodgers.
MR. RODGERS: Is it all right with you if I sit, or

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do you want me to stand up?
THE COURT: I mean, if you're comfortable sitting, that's fine with me.
MR. RODGERS: If it gets to the point where you can't hear me or something like that, let me know. I'm going to stand up at some point, but I just didn't want to stand the whole time.
MS. SAWADSKE - CROSS-EXAMINATION BY MR. RODGERS:
Q: My name is Stanley Rodgers. We've never met before. Nice to meet you.
A: Nice to meet you.
Q: You appraised individual units at The Legends. You took a, what you considered a standard one bedroom, a standard two bedroom, a standard three bedroom, came up with a value for those, and then worked off of those to get the other units?
A: Right.
Q: All right. You did valuations as of 12/31/07, the lien date, and valuations as of 12/31/03, the reassessment date, correct?
A: Correct.
Q: And we've been talking about the reassessment date, 12/31/03. Those values ended up being lower, so those are the values y'all go with.

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That's how y'all do it?
A: Correct.
Q: All right. Your purpose is to determine the fair market value of a particular date?
A: Right.
Q: All right. And you attempt to be fair when you do that, correct? You don't go in with an ax to grind? You don't go in with a conclusion in mind and work your way backwards, correct?
A: No.
Q: All right. You research the data and then let those -- let that data, let those facts take you to your conclusion, correct?
A: Correct. Correct.
Q: And your conclusions as to value are only as good as the data on which they are based, correct?
A: Correct.
Q: When you're looking for sales -- you valued it two ways. You did an income approach and a sales comparison approach. And I think you testified, the typical way is a sales comparison approach, and in this case, like in any other case, you would consider the sales comparison approach to be the most reliable way

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to value these units?
A: Correct.
Q: Okay. So, when you look for sales comparisons for a comp, you're trying to find something that is as close to the subject as possible? And I don't just mean close proximity-wise, but I mean, ideally, what you would look for, a great comp would be 12/31/03, if the unit next door had sold and it was the exact same size, you would say that's a pretty good comp --
A: Correct.
Q: -- for this unit? We didn't have that, so you have to reach out to other places to try to find comps, correct?
A: Correct.
Q: And then, depending on what they are, you adjust them for value to come up with your value for the comp. So what I'd like to do is go through some of your data to support each of your conclusions. So you've got a conclusion for a one bedroom unit and then you've got your sales comparisons that you relied on to come up with that value. In your report, and I don't know if you've got one --
MR. RODGERS: Do you have one in front of you?

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MR. MITCHELL: Yes, sir.
Q: All right. Ms. Sawadske, your comp for the sales comparison approach, page seven, you have a grid that has a lot of information on it, and at the top of the grid, you list out your three comparables that you used to come up with a value for the one bedroom unit. Comparable number one is in Bay Club Sea Lofts; two is in the Mountclair complex; and number three is in Ellington Woods. Have I got that right?
A: Yes.
Q: Okay. And then you use those comparisons and the sale prices from them to do adjustments to come up with your value of $110,000, correct?
A: Correct.
Q: All right. In your grid, you pull out or you list certain information, the sales price, correct?
A: Correct.
Q: For these units, you break down the sales price into a per square foot price, correct?
A: Correct.
Q: And you also have the address and how far it is from the subject. If I look at your comparables and look at your -- and the range

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of your per square foot prices, the range is from 84 to $156 per square foot, right?
A: Correct.
Q: That's a big range?
A: It is.
Q: Ultimately, your valuation of $110,000, the way you come up with a square foot price would be, you take $110,000, divide it by the size of the unit, which is 753 square feet, to come up with the per square foot price that you used, which was $146.10; am I right on that?
A: I guess. I have not done the math, but yes. Yes.
Q: If my math is right.
A: If your math is correct.
Q: I would take your price, $110,000; I'd divide it by the size of the unit; I'd come up with a per square foot price?
A: Right.
Q: When I do that analysis, I get $146.10. So, if you compare your square foot price with the square foot price of your comparables, you're at the upper end of that range, do you agree?
A: Yes.
Q: How important is location in real estate?

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A: Location is everything.
Q: All right. Location, location, location?
A: That's right.
Q: All right. Your first comp, Bay Club Sea Villas, has the highest per square foot price, $156, do you see that?
A: Yes.
Q: It's a long way from The Legends, isn't it?
A: It is.
Q: All right. Your appraisal report, what you do on each one is, you have a map where you show where the comparables are located in relation to the subject?
A: Correct.
MR. RODGERS: That is page 14, Your Honor.
Q: On that map, if you're looking on page 14, comparable number one is way down near the bottom left, correct?
A: Yes.
Q: All right. That comparable is not located on Highway 17?
A: No, it is not.
Q: All right. It is, what is that, two minutes from Sullivan's Island?
A: It is.

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Q: The premiere beach in Charleston? Somebody commuting from that location wouldn't drive on Highway 17 at rush hour, would they?
A: No.
Q: That comp is, in fact, in a different zip code, isn't it?
A: It is.
Q: That's in 29464?
A: Correct.
Q: The subject property is 29466. You think there's a big difference between that comp and The Legends?
A: I do.
Q: Okay. Your next comp, Mountclair. And on our map, on page 14, it is the next one down on the left, correct, 4.81 miles away?
A: Yes.
Q: 4.81 miles closer to downtown Charleston?
A: Correct.
Q: Closer to the Isle of Palms and Sullivan's Island than the subject, correct?
A: Yes.
Q: All right. Again, a different zip code, 29464?
A: Yes.
Q: Yes. The last comp, Ellington Woods. If you'd look on your map for that one, two and a half miles from the subject?
A: Yes.
Q: That's pretty close, isn't it?
A: Yes.
Q: That's your best comp, isn't it?
A: I don't know.
Q: Well, it's in the same zip code?
A: It's closer.
Q: Yeah, it's definitely closer. It's the same zip code?
A: Yes.
Q: All right. Wouldn't it be fairer, when you're coming up with the fair market value for this property, to use comps that are in the same zip code?
A: If they had one bedroom.
Q: You would agree that would be a -- that would be the best way to do it?
A: If I could find a one bedroom unit that was in that zip code, that would be fabulous.
Q: All right. The first comp looks to me like the Bay Club Villas. None of those comps are one bedroom, or that one is?
A: That one is.

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Q: Okay. But ideally, you're looking for a one bedroom unit that is as close to the subject as possible?
A: Correct.
Q: Okay. If we were to take the per square foot price from your comp that is in the same zip code, do you know what value we'd come up with?
A: I do not.
Q: All right. If my math is right, 753 square foot times their per square foot price, $84.42, would be $63,568. That's an analysis of the value based on the per square foot of the comp that is closest to the subject. It's one of your comps, all right. Is that a big difference between your value of $110,000?
A: Yes, but it's 1600 square feet as opposed to 700 square feet.
Q: So, if we're comparing the total price of the two units, that might not be fair. But if we take a per square foot price -- that's what you do in your chart?
A: Uh-huh (affirmative response).
Q: You take a per square foot price. So one way to compare the units is to compare per square feet prices, and not just the total price?

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A: Right.
Q: Okay. And that's a fair way to do it, isn't it, compare per square feet prices?
A: I don't ever value anything per square foot like that. I don't say, well, this sold for 150 a square foot, so I'm going to multiply 150 times the square footage and have a value.
Q: In your chart, you list out the per square feet prices in addition to the sales prices?
A: Right.
Q: And you range a per square feet prices just like there's a range of sales prices?
A: Right.
Q: Okay. And if we take your value of $110,000, we can figure out the per square foot price and how it compares to your sales comparison comparables, right?
A: Right, within the range.
Q: And then what you did is you took your standard one bedroom unit and then went either up or down for the other types of one bedroom units; you didn't go out and find different comps for that, you worked off your base?
A: Correct.
Q: Two bedroom units, kind of walk through the

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same thing. I want to look at your comps and analyze the comps you used.
MR. RODGERS: This is a two bedroom analysis, Your Honor.
Q: The comps for two bedroom are found on page seven of this report. The comps are listed across the top, Ellington Woods, Ellington Woods, and Mountclair. And there's actually four on this one, which is shown on page 12, another Ellington Woods unit. So three from Ellington Woods and one from Mountclair. If we look at those units, you've got the sales prices listed, same thing, you also have per square foot prices?
A: Yes.
Q: All right. And they show a range of per square foot prices from $95.65 to $126.33.
A: Correct.
Q: Okay. Do you know what per square foot price you used?
A: I do not.
Q: All right. Your final value is $148,000. If we divide that by the square footage in the unit, $148,000 divided by 1,030 square feet, we come up with $143.69. That's the math. So you

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have a -- your comparables have a per square foot range of $95 to $126. You used a per square foot price of $143, right?
A: Correct.
Q: Outside the range?
A: Correct.
Q: Okay. If we look at the map showing the comparables, where they are located in Mount Pleasant, again, this time we've got four.
MR. RODGERS: Your Honor, it's page 19. Is your book in color, Your Honor?
THE COURT: It is.
Q: Okay. You'll see the subject is always in red. And then you've got three comps that are in that same, if I drew a circle, they'd all be right there together. And then you've got another comp, number three, that's way down at the bottom. Do you see that?
A: Yes.
Q: That's the Mountclair unit that you priced, 4.81 miles away. Do you see that?
A: Yes.
Q: All right. Again, Mountclair, that's comp number three. That's a different zip code?
A: Yes.

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Q: All right. That is, when we're looking at per square feet prices, that is the highest per square foot price out of your comps, $126, right?
A: Yes.
Q: All right. Wouldn't it be fairer if you had based your conclusion as to value on the comps that are all right there together around the subject rather than taking those comps and going down and pulling one from a different zip code with a much higher per square foot price?
A: No.
Q: It wouldn't be fair to do that?
A: No.
Q: Is our goal when we're doing a fair market analysis on the sales comparison approach to use comps that are as much like the subject as possible?
A: Yes.
Q: All right.
A: And comp one and two are 1600 and 1500 square feet where our subject is 1000 square feet. Comparable three is 1200 square feet, much more similar than comps one and two.
Q: Doesn't the per square foot price, though,

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eliminate that difference? Because what I'm doing is comparing per square feet prices.
A: Well, if you go to Costco, you get things for less per unit than you do if you go to Piggly Wiggly. Because you're buying more, you get it for less. When you're buying more square footage, it's less per square foot.
Q: All right. Why didn't you use comps that were in the same zip code that were of a similar size?
A: They didn't exist. They weren't available.
Q: So you reached out to comps in different areas?
A: Correct.
Q: It's not what you wanted to do? It's not the preferable way to do it? You'd rather have a comp that is physically closer to what you're appraising?
A: If it's similar.
Q: Well, the same thing. If we take your comparables and we knock out the one that is in a different zip code, we come up with an average per square foot price of $98.44. That's just taking your three that are in the same zip code and dividing by three to come up with a per square foot price. Do you know what

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your per square foot price was?
A: I believe you said it was $143.
Q: It was, $143.69. So, again, pretty big difference between those. And if we used the size of the unit, 1,030, and multiplied it by the per square foot price based on comparables that are near the subject, that are in the same zip code, we come out with a very different overall value, $101,393. And then, again, you take your base value for a two bedroom unit and then up or down for the other models of that unit?
A: Correct.
Q: Okay. Same thing for three bedroom units.
MR. RODGERS: That's the next exhibit, Your Honor.
Q: Your grid on page seven shows the three comparables that you used, Cambridge Lakes, Ellington Woods, and Ellington Woods; do you see those?
A: Yes.
Q: All right. Your per square foot range for those three is $103.52 to $112.20?
A: Yes.
Q: Do you see that range?
A: Yes.

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Q: Do you know what per square foot price you used?
A: I do not.
Q: All right. The range, 103 to 112, your comps, the per square foot price you use is $125.28. Again, outside -- the range you use is outside the range of the comps that you've selected, correct?
A: Yes.
Q: And if we look at the map for the three bedroom comps, which is found on page 16, we'll see the same issue arises. You've got some comps, two of your comps in this case, are close to the subject. They're in the same zip code. And one of your comps is way down at the bottom on the left, right?
A: Yes.
Q: And again, the comp that you use in every case, that is, the comps that you use in every case that are not in the same zip code, have the highest per square foot, right?
A: Yes.
Q: The per square foot price you actually used is $125.28. Again, that's above the range. My question for this is the same as for the two

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bedroom and one bedroom. You don't think it would be fairer when you're trying to determine the fair market value to stick with the comps that are within the same general proximity of the subject?
A: I think that, either way, after being adjusted, they fall into the same range.
Q: And I guess that's the tricky thing. Because if we take your actual comps, we can look at what the per square foot price is, right, very easy. We take a sales price, divide it by a square foot price. We come up with a per square foot price. That's just math. And it doesn't take any adjustment, because, when you move into the range of adjustment, aren't you moving into the subjective?
A: Yes.
Q: You're deciding how you move a per square foot price up or down, right?
A: Right.
Q: Whereas, if we use the comps to come up with a per square foot price. The number's just a number, right?
A: Right.
Q: Okay. And again, if we use the -- on the three

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bedroom units, if we use the average of the per square foot price from the comps that are in the same zip code, the average per square foot price would be $104.24 as opposed to your square foot price of $125.28. Again, that's a big difference, right?
A: Yes.
Q: Okay. And if we use that average per square foot price from the same zip code comps, for a three bedroom unit, we get a value of $141,454 as opposed to your value of $170,000. Big difference?
A: Yes.
MR. RODGERS: I've got a chart, Your Honor, just showing those numbers. I'll show it to the other side.
THE COURT: Sure.
MR. RODGERS: These are her plans, her values, totaled up, that number. The numbers I just read into evidence, they're my calculation with the comparison.
MR. MITCHELL: We have no objection, Your Honor.
THE COURT: Okay.
Q: Can you see that, too?
A: Yes.

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Q: All right. The purpose of that chart --
MR. MITCHELL: Your Honor, may I approach?
THE COURT: Sure. Come on around to see.
MR. RODGERS: If I'm in your way, tell me.
Q: When you did your individual appraisals, you took the units, right, noted beside them how many of that type of unit there was? For example, you used your base unit on the one bedroom as a Dogwood plan, right?
A: Right.
Q: You noted there are 33 of them. Then you did an individual appraisal, for that unit, it's $110,000, and then worked off of that to get the values for the other units?
A: Correct.
Q: Okay. If we took the number of units times your appraised value, we'll come up with a subtotal for that unit, and then you can go down and add all those up, and you add up to $16,454,000, which is the position y'all have today for the total amount of the units, and the same position y'all presented before the Board of Assessment Appeals, correct?
A: I only present individual values. I don't total them up.

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Q: All right. If they're totaled up, that's the number, isn't it?
A: I believe so.
Q: Okay. What the chart shows is, if you take the analysis we just went through, if rather than using your comp values from outside the zip code for this property, if we limit our valuation to the comps that are inside the same zip code that are physically closest to the subject, based on those per square foot prices, we come up with radically different numbers, which add up to a total of $10,859,917. You understand the methodology we went through to come up with those numbers?
A: Sure.
Q: Okay. You were present before the Board of Assessment Appeals?
A: I was.
Q: This is the last page of their decision.
MR. MITCHELL: No objection, Your Honor.
MR. RODGERS: Your Honor, this chart shows the last page, the Board of Assessment Appeals, below --
MR. MITCHELL: May I approach, Your Honor?
THE COURT: Yes.
MR. RODGERS: They issued a written ruling, and the

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last page of that ruling was a chart. And they showed the units, the value under the -- when the assessment notices originally went out, they went out with these notices, with these values. And when they came before the Board of Assessment Appeals, they admitted that the value should be less this. So they showed those values, but these were the ones which are -- there may be a couple differences, but your total that you present today is the same as the total that was presented then. So what this shows is per total value --
MR. MITCHELL: Your Honor --
THE COURT: Yes.
MR. MITCHELL: I have an objection. He's not asking the witness any question.
MR. RODGERS: Good point. It's a fair point, Your Honor.
THE COURT: Okay.
Q: Let me do it like this.
THE COURT: It's sustained.
Q: You were present during the Board of Assessment Appeals?
A: Yes.
Q: All right. You're familiar with their ruling?

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A: Yes.
Q: All right. Their ruling was, when you add up the values, they came up with a total of $10,090,000, correct?
A: I'm assuming the math is correct, yes.
Q: Have you looked at their decision?
A: I'm not sure if I have.
Q: All right. This is a blowup of the third page. So, if this is an accurate blowup of the third page, looking at it, you admit that the value that the --
MR. MITCHELL: Your Honor, I have an objection. His questioning, line of questioning, is outside the scope of her knowledge. The values that the Board of Assessment Appeals come up with are independent of what Ms. Sawadske has come up with and how they determined that was behind closed doors and she was not present for that determination.
MR. RODGERS: Okay.
THE COURT: Yes.
MR. RODGERS: I'm at the end of the questions, Your Honor. It was designed to show your value versus what they came up with.
MR. MITCHELL: We can see.

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THE COURT: Okay.
MR. RODGERS: All right. Thank you.
Q: The assignment that was given to you was, value these units as individual units, correct?
A: Correct, individual condo units.
Q: You weren't given the option to value them in a different way? You weren't given the option to value them as 121 units together?
A: No.
Q: All right. So you didn't go -- to determine that they should be valued as individual units, you didn't go through a highest and best use analysis?
A: No. I'm a residential appraiser. It came to me to be valued residentially.
Q: The word came from on high, said do it this way, you did it that way?
A: Correct.
MR. RODGERS: Your Honor, I think that's all the questions I have.
THE COURT: Okay. Thank you.
MR. MITCHELL: Your Honor, may I re-direct?
THE COURT: Yes.
MR. RODGERS: Your Honor, I apologize. Before we get started, I didn't mark -- could I mark that

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chart as a small sheet of paper and put it in evidence for you?
THE COURT: Any -- Mr. Mitchell?
MR. MITCHELL: Excuse me, Your Honor.
THE COURT: Mr. Rodgers -- well, you didn't object to it, so --
MR. FERRARA: We didn't object to the chart.
THE COURT: Yeah, he didn't object to it, so, yeah, you may do that.
(Respondent's Exhibit Number Eleven was marked for identification purposes and admitted into evidence.)
MS. SAWADSKE - REDIRECT EXAMINATION BY MR. MITCHELL:
Q: May it please the Court. Ms. Sawadske, let's talk about some of the line of questioning that was brought to you in cross-examination. And I want to direct your attention to page seven of the one bedroom apartments -- excuse me, the condominium units. You testified before that your valuation for fair market value for one bedroom apartments was for the Dogwood plan, correct?
A: Correct.
Q: Okay. Let's look at comparable sales number one. And there was a lot of questions that were directed towards square footage. What

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does this square footage on page seven represent?
A: The size of the condo.
Q: Now, what about the price per square foot?
A: That represents what it sold for per square foot.
Q: Okay. Did you make any adjustments to that square footage for any of the factors it had listed down here on this, as he called it, a grid?
A: I did.
Q: So the square footage value --
A: Well, I didn't adjust the price per square foot. I adjusted the sale price, which comes up with a different value.
Q: We'll get there. But that price per square foot reflects before you made your adjustments, correct?
A: Correct.
Q: So let's talk about those adjustments. Now, to your knowledge and experience, you go through certain methodologies to reach down to your adjusted sales price of comparables, correct?
A: Correct.
Q: And that's what you were taught in your

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certified appraiser class?
A: Yes.
Q: Let's talk about the first one, first sales comparable, and you make adjustments. The first adjustment you see is the date and time of sale. How do you determine that price? Excuse me. How do you determine that adjustment?
A: Paired sales analysis. It was -- I did a negative 12 percent annualized time adjustment based on paired sales, properties that were the same that sold at different times, to extract that adjustment.
Q: So there was something you compared it to, it wasn't just something you just pulled out of thin air, that 13, date, correct?
A: Correct.
Q: Let's move down to the location. There was a lot of questions location, about zip codes, about whether it was just down the street on Highway 17.
A: Right.
Q: To adjust for a location that might not be right next door to the property or subject property, you made adjustment, correct?

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A: Correct.
Q: And what was that adjustment?
A: Ten percent, negative ten percent.
Q: Why did you apply negative ten percent?
A: Because that comparable is clearly superior location to the subject.
Q: How do you decide what is a superior location versus an average or inferior location?
A: Well, that's pretty subjective. It's near a beach; it's closer to downtown, so it's superior.
Q: So there was an adjustment made because of the location?
A: Right.
Q: Now, in any of your classes anywhere, were you taught that zip code is the determining factor in location?
A: No.
Q: So, theoretically, you could have, on one side of Highway 17, your subject property in one zip code; and on the other side, a different zip code, the different property you're comparing it to. Would you make an adjustment?
A: No.
Q: Even though they're not in the same zip code?

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A: I would not.
Q: And so your adjustments for location are based on other factors besides zip code?
A: Correct.
Q: Let's go down to the common elements and recreational facilities. Now, you made an adjustment there?
A: I did.
Q: And what was that adjustment?
A: Five percent.
Q: Why did you determine five percent?
A: Because the amenities of these places are clearly inferior to the subject. They don't have -- they may have -- they have a swimming pool, but they don't have the waterfalls and the hot tubs and the superior things that the subject has.
Q: So you did make an adjustment for different features that are in the common elements of the subject property compared to this one, correct?
A: Correct.
Q: And let's move on down to quality construction.
A: Correct.
Q: And what was the adjustment there?
A: That was at $10 a square foot.

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Q: Okay. Let's move down to the porch, patio, deck that's down below a bunch of other factors, and you made an adjustment. Why did you make an adjustment there?
A: Because the comparable one has a balcony as opposed to the subject, which has a screened porch.
Q: Okay.
A: And typically, the market pays -- what I extracted was, typically, the market pays more, about $1,500 more to have that screened porch versus a balcony.
Q: So you did make adjustments to all these that were based within your knowledge and experience, correct?
A: Correct.
Q: So anywhere -- down at the very bottom, you said net adjustments. And what was that net adjustment for comparable number one?
A: Ten thousand -- negative $10,800.
Q: And right below that is adjusted sales price of comparables.
A: Correct.
Q: And what was that number?
A: $114,200.

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Q: Okay. I'm not going to ask you to do any math.
A: All right.
Q: Now, does this square footage above the price per square foot, is that -- would that $114,000 -- let me rephrase that. That $114,000, and if you look at the square footage above all the factors, does that price per square foot reflect that $114,000 after you made adjustment?
A: No.
Q: Comparable two, there's a whole list of adjustments and they're very similar. Down at the bottom, the net adjusted total for comparable two was?
A: Negative $300.
Q: To come to a value?
A: $112,600.
Q: Did you consider zip code at any time when you were trying to make your adjustments?
A: No.
Q: So your location -- your adjustment for location was -- did you make an adjustment for location?
A: Not on comparable two.
Q: Well, why not?

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A: Because they are also similarly located on the highway right near a shopping center. The subject property, you don't even have to get on the highway to get to the beach. There -- you can hit a back road and you're on the beach. So I felt that they were pretty similar in location.
Q: So, just to make it clear, on comparable number one, which has a zip code of 29464, you made an adjustment for location?
A: Correct.
Q: On comparable number two, it has a zip code of 29464, you made no adjustment, correct?
A: Correct.
Q: Because your factors for location adjustments are based on --
A: Location, not zip code.
Q: Location, not on zip code. So we talked about --
MR. MITCHELL: Excuse me. Court's indulgence, please.
Q: You were posed a question about something that was outside the range. Now, when you look down to adjusted sales price comparables, does your subject property seem to be outside the range

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of those comparables?
A: No. It is within the range of the adjusted sale prices.
Q: So it's within the range of adjusted sales prices?
A: Right.
Q: Now, when you were asked the question about the price per square foot and it being outside of a range, what range were you referring to?
A: I believe we were referring to the price, the sale price per square foot, not the adjusted.
Q: Not the adjusted, though, correct?
A: Uh-huh (affirmative response).
Q: Let's summarize one more time on your --
MR. MITCHELL: Can you see this, Your Honor?
THE COURT: Yes, I can.
Q: So these values, the current values are the values that you determined -- utilized in your appraisals, correct?
A: The assessor recommended values, the second column.
Q: So the Azalea plan one bedroom, after taking into account all the adjustments, what was the --
A: $105,000.

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Q: And the Azalea Elongated?
A: $107,000.
Q: The Dogwood plan?
A: $110,000.
Q: And I can go down, but all of these numbers right here in the assessor recommended, according to your appraisals, and that takes into account not zip code, just the factors that you list in your appraisal and where you made your adjustments, correct?
A: Correct.
MR. MITCHELL: I have nothing further, Your Honor.
THE COURT: Thank you.
MR. RODGERS: Brief re-cross, Your Honor, or no? Do you allow it or no?
THE COURT: I do, occasionally, and I'm going to allow it, but please keep it very brief.
MR. RODGERS: It will be very brief.
MS. SAWADSKE - RE-CROSS-EXAMINATION BY MR. RODGERS:
Q: You said that you don't necessarily -- it's not necessarily significant to your analysis simply because comparables might be in different zip codes? For example, they could be across the street from each other in different zip codes and that wouldn't be a big deal, correct?

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A: Correct.
Q: I agree with you. Are any of the comparables in your case, in this case, that you have used that are in different zip codes across the street from each other?
A: No.
Q: No. They are miles away from each other?
A: Correct.
Q: Miles down Highway 17, the central artery that connects northern Mount Pleasant to downtown Charleston, correct?
A: Correct.
Q: Driving that road at rush hour twice a day is a big deal, isn't it? If you can cut seven miles off your commute on bumper to bumper traffic, that's a different location, isn't it?
A: I would guess.
Q: Have you ever driven it?
A: Not in rush hour.
Q: All right. And the same can be said for proximity to the beach. Those higher priced comparables that are in a different zip code are all closer to Isle of Palms and Sullivan's Island. People consider that a plus, don't they? People would rather be -- all things

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being equal, they'd rather be close to the beach, correct?
A: Correct.
Q: All right. In any of your comps or in the subject, did you go inside to look at them? Did you go in an of them?
A: The comparables, no.
Q: So you don't know if some of your comps, the ones that sold for the highest prices, the ones that were in a different zip code, had recently been renovated as opposed --
A: Well, I do. I spoke with the agents on all of them.
Q: Okay. So the highest priced one, Sea Bay, had that recently been renovated?
A: It had been renovated.
Q: It had been renovated?
A: Uh-huh (affirmative response).
Q: How about Mountclair, another one of your different zip code comps with the highest per square foot price, had that also been recently renovated?
A: Yes.
MR. RODGERS: Okay. I don't think I've got any more, Your Honor.

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THE COURT: Okay.
MR. RODGERS: Thank you.
THE COURT: Thank you very much for coming up and testifying. And before we move to the next witness, I'm going to take a ten minute break.
(A brief break was taken.)
THE COURT: Okay. Are we ready to reconvene?
MR. FERRARA: Thank you, Your Honor.
THE COURT: Okay. You may call your next witness.
MR. FERRARA: The county is going to call Steve Everman to the stand, please.
THE COURT: What's that last name again?
MR. FERRARA: Everman.
THE COURT: Everman, okay. Mr. Everman, before you take your seat, if you will face the court reporter, she will swear you in.
STEPHEN JOSEPH EVERMAN, having been duly sworn, testified as follows:
MR. EVERMAN - DIRECT EXAMINATION BY MR. FERRARA:
Q: Steve, if you will please state your full name for the Court.
A: Stephen Joseph Everman.
MR. FERRARA: And I'm going to spend a couple of minutes, Your Honor, just wanting to get a little feel for who this gentleman is.

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Q: Tell us where you work, Mr. Everman.
A: I work for the Charleston County Assessor's Office. I've been employed there for over 19 years.
Q: All right. What are your duties in the assessor's office?
A: Currently, I'm appraisal supervisor. Before that, I was a commercial appraiser.
Q: And what kind of properties do you appraise in the assessor's office?
A: I appraise multiple types, all types of properties, residential, commercial, apartments, all different.
Q: If you'll just real briefly just provide us your educational background.
A: I have a economics degree from Wofford College. I've taken over 300 hours of continuing ed. As far as appraisal goes, I have a certified general mass license from the State of South Carolina.
Q: All right. If you'll tell the Court what certified mass license allows you to appraise and not appraise.
A: It allows me to appraise all types of properties regardless of value.

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Q: So there's no restrictions to a mass appraisal license?
A: It allows me to appraise -- doesn't allow me to appraise federally related transactions.
Q: Any other certifications or licenses?
A: No, sir.
Q: Who do you report to in the assessor's office?
A: The assessor.
Q: All right. How many appraisals do you think you perform in a year?
A: As a supervisor, I don't do as many as I was previously. When I was a commercial appraiser, I appraised all properties, all multi-family properties as far as apartment complexes in Charleston County, and I appraised all commercial properties in downtown Charleston.
Q: All right. Roughly, can you tell me about the number?
A: It depends upon the appeal load and whether we're in a reassessment year. If we're in a reassessment year, of course, we would appraise probably 8,000 to 10,000 properties.
Q: But you don't appraise 8,000 to 10,000 properties. You supervise the appraisal?
A: Currently, I do. When I was a commercial

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appraiser, I did appraise.
Q: You appear before the Charleston County Board of Assessment Appeals regularly?
A: Yes.
Q: Okay. How many times a year do you, roughly, appear before the Board?
A: As a supervisor, I go with any appraiser that is a residential appraiser that's under me.
Q: All right.
A: And that's approximately ten times a year.
Q: You've appeared in this Court, before the Administrative Law Court before, haven't you?
A: Yes, I have.
Q: How many times have you testified in the Administrative Law Court, would you think?
A: Three to four.
Q: Okay. And you've been qualified as an expert in --
A: Been qualified as an expert in multi-family properties and residential properties.
Q: And you've been qualified as an expert in this Court before, haven't you?
A: Yes, sir.
Q: Okay. We're going to talk about an appraisal valuation analysis of The Legends at Mount

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Pleasant as of December 31st, 2003. If you will, give a brief description of what this report is that's in front of Your Honor. It's reflected as Petitioner's Exhibit Number Four in your binder.
MR. FERRARA: Got it, Your Honor?
THE COURT: I've got it.
Q: If you'll just tell us what this report is, what does it reflect?
A: This was a report that I had done for an appeal on The Legends at Mount Pleasant when it was an apartment complex for the tax year 2005. It had an effective date of December 31st, 2003.
Q: You didn't prepare it for this appeal, did you?
A: No, sir. This was done for an appeal for tax year 2005.
Q: Okay. And tell us -- tell Your Honor why we're going through -- why we're using this report. What's the value in this appeal?
A: This was a report that I used in order to value the subject property as an apartment complex where I had to look for income and expense numbers on the subject property, had to perform an income and a sales comparison approach. I estimated a directed gross income for the

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property or the rents of the property, expenses for the subject property, vacancy, and other factors that would be involved in doing the income approach.
Q: Well, let's just dive right into it, okay. Let's talk about, you mentioned you -- this data was collected for your appraisal of The Legends as an apartment complex as of December 31, 2003. And so let's talk about the different methodologies you used in this report. And I think we can start off with the income capitalization approach. Is that the first methodology you used?
A: It's one of the methodologies I used. In this report, I think the sales comparison approach is the first.
Q: Okay. Well, let's talk about the sales comparison approach. I'm trying to find where that is in here. You can direct me to that.
A: It starts on page --
Q: Oh, on page 30.
A: -- 30.
Q: Okay. Let's talk about the sales, the direct sales comparison approach. What is it? What did you do?

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A: Sales comparison approach, you locate three sale -- or sales that you would consider comparable to the subject property and then make adjustments to them for differences. You are to arrive at a value for the subject property.
Q: All right. And if we go to page 32, there's a sales grid. Does that reflect your sales grid of comparables?
A: Those are descriptions of the units and income of the comparable properties.
Q: All right. And that sales grid shows the adjusted value of the number of units?
A: No, if you go to page 35.
Q: All right. This is the grid I was looking for. I'm sorry. Let's talk about the grid. What is page 35, the approved sales adjustment grid based on dollars per square, foot reflect?
A: It reflects the adjustments to the comparable properties for either positive or negative and how they relate to the subject property.
Q: All right. So you compared The Legends with Cypress Cove, which is West Ashley, Alexan Belle Hall in Mount Pleasant, and Alta Shores in North Charleston, is that correct?

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A: That is correct.
Q: All right. And let's talk about -- if you can briefly just give us the salient points, sales price, the expenses, how you arrived at your net operating income, and let's go briefly through the adjustments and talk about how we get to -- let's talk about the data.
A: What I do is estimate what the -- what the income for the subject property would be, which would be an income approach.
Q: Okay.
A: Then I come back to the sales approach and apply that income based on its differences between Cypress Cove and Alexan Belle Hall. By doing it this way, you take out the subjective adjustments that should be made for the property, because the renters have already told you what they feel is a better property or is an inferior property by the rents that they'll pay.
Q: All right. Well, let's talk about, then, the EGI. What does the EGI reflect?
A: EGI is effective gross income. What that is is you take the potential gross income of the property. You subtract any vacancy and

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collection loss.
Q: All right.
A: And then you take any concessions out.
Q: Okay.
A: And that will give you an EGI, or the common factor of gross income.
Q: All right. And after you get your effective gross income, we make some adjustments to that, as well, right?
A: Correct.
Q: To arrive at your net operating income?
A: We make some adjustments to the comparable properties in order to make them more like the subject property.
Q: All right. And that percent of expenses is reflected in that 39.9 percent for Cypress Cove -- I mean for The Legends, which is reflected as 39.8 for Cypress Cove, 38 for Belle Hall and 43.2 for Alta Shores?
A: Correct.
Q: And that's fairly consistent with -- as comparables?
A: It's consistent with what we look at in the market. That's where those properties are at.
Q: And then you arrive at a net operating income?

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THE COURT: If you --
MR. FERRARA: Yes, ma'am.
THE COURT: Mr. Ferrara, if you will excuse me one moment.
MR. FERRARA: Certainly.
THE COURT: I have to step out.
(A brief recess was taken.)
THE COURT: I apologize for the disruption. I'm hopefully at the tail end of a cold. You may proceed.
Q: Mr. Everman, let's turn from page 35 and let's talk about page 36. All right. And that is titled, Improved Sales Adjustment Grid Based on Dollars Per Foot. Tell me what that means.
A: Dollars per foot or dollars per unit?
Q: Per unit. I'm sorry.
A: It does the same scenario. It takes a look at how the comparable sales income is distributed to the units and compares it to the subject and you make adjustments to the comparables to arrive at a value.
Q: All right. And on that page, you have the subject and three different sales. Will you tell us how you chose the various sales comparables?

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A: I was looking for comparables that were what we call type A complexes, which were the newer complexes at the time that had sold around the same time as the effective date of the appraisal.
Q: All right. Let's talk about the date of the sale. What are the dates of sale for the various comparables?
A: One was December of '02. The other -- the second one was June of '04, and the third one was October of '04.
Q: All right. Now, isn't this report based on a date of value of 12/31/2003?
A: I need to make a correction. I think Alta Shores, number three, was October of '03.
Q: All right. So that's a scrivener's error?
A: Yes. It says, if you go to my income approach on page 44, it says 4 of '03 is the date of the sale.
Q: On page 44, the date of sale at the top of the page under capitalization rate, item number three, Alta Shores, date 4/03; is that what you're referring to?
A: Yes, sir.
Q: Okay. So back on page 36, when we're talking

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about dollars per unit, sale number three is October 2003, correct?
A: Sale three should be April of '03, 4 of '03.
Q: All right. 4/03. All right. Let's talk about the next line item, the sales price. How did you choose -- well, what is the sales price? What does that reflect and what is it and why did you -- if you'll just do a little --
A: The sales price is the price paid for the properties.
Q: All right. And sales number one was $19,325,000?
A: Correct.
Q: And sales number two was $23,050,000?
A: Correct.
Q: And sale number three was $15,162,786?
A: Correct.
Q: What about the range between the $15 million and the 23; is that -- is that a large range of sale price?
A: No, because there are other variables that go into it.
Q: Okay. All right. Let's talk about the -- how we figure the project size and units. What does that mean?

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A: It's the number of units that are at the property.
Q: All right. And The Legends is a 200 unit -- was a 200 unit apartment complex?
A: At the time of this appraisal, yes.
Q: All right. What were the sales comparables?
A: Cypress Cove, Alexan Belle Hall, and Alta Shores.
Q: All right. Two hundred sixty-four units in Cypress Cove?
A: Correct.
Q: And the 240 in Belle Hall?
A: Correct.
Q: And 240 in Alta Shores?
A: Correct.
Q: That's comparable to The Legends?
A: Those are sales that took place and then you would have to adjust them based on the units to be similar to subject.
Q: All right. Let's talk about the next line item, unadjusted price per unit. What does that figure reflect?
A: It just takes the number of units and divides them by the sales price.
Q: Okay. And that number is reflected in those

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three charts with the line under them, $73,201 for Cypress Cove, $96,042 for Belle Hall, and $63,178 for Alta Shores, is that correct?
A: That's correct.
Q: What is EGI? What does that -- what does that mean?
A: That's effective gross income.
Q: How do you arrive at effective gross income?
A: Take the potential gross income, you subtract vacancy and collection loss, you subtract any concessions that were in time of the appraisal for rents, you add any other income, such as vending machine income and things like that. That will give you your effective gross income.
Q: All right. How do -- if you'll walk the Court through Cypress Cove sales comparable number one. How did you arrive at the EGI of $2,502,000 for that comparable?
A: That's what the property was generating for Cypress Cove at the time of the sale.
Q: All right. Is that a figure that is supplied to you on their operating statement or is that a calculation you make?
A: Cypress Cove, it's a calculation that you get from either the appraiser who had done the

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property or you get it from the owners of the property.
Q: All right. So is it your testimony, then, the EGI for the three comparables are numbers that you received from either the appraiser or the owners --
A: They're numbers that I --
Q: -- of those three comparables?
A: -- arrived at through research, yes.
Q: Okay. All right. Well, then, now, let's talk about what you do to the EGI. Let's talk about this next line item, expenses. It has a percentage after it. Tell us what that means and why you factor that into the EGI.
A: EGI, you take the EGI and you take your expenses from the EGI and that will give you -- or your effective gross income and that will give you your net operating income.
Q: All right. What is net operating income?
A: It's the money after the year to year, in this case, daily expenses were paid for the then debt service and taxes.
Q: All right.
A: Or the taxes, I believe, aren't in this. The taxes are in the expenses.

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Q: All right. The net operating income for The Legends was looks like $1,259,711, is that correct?
A: That's correct.
Q: All right. And now, walk the Court through how you arrived at the net operating income for the Cypress Cove. What was the net operating income for Cypress Cove?
A: Net of $1,505,404. The same process is done with that, you take the effective gross income and you subtract the expenses.
Q: All right. So you take $2,502,000 and you subtract out the expenses of $996,596 and you arrive at the net operating income of $1,504,000 -- $1,505,400, correct?
A: Correct.
Q: And you do that the same for sale number two, Belle Hall, and sale number three, Alta Shores, is that correct?
A: That's correct.
Q: And so the net operating income is in the range of Cypress Cove on the low end -- I'm sorry, strike that. Alta Shores on the low end of $1,220,674 and on the high end, Belle Hall of $1,592,640. How does that compare with the net

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operating income of The Legends?
A: The Legends' net operating income was $1,259,711.
Q: All right. So it compares favorably?
A: Well, you use your net operating income in order to get your capitalization rate.
Q: Okay. Well, I guess my question is this. That range is acceptable of the net operating income?
A: The net operating income for the subject property is what I determined it to be.
Q: Okay. And now, let's talk about this overall rate. What is this overall rate? What is that overall rate?
A: Overall rate is a capitalization rate that we use in order to turn the net operating income into a -- a value.
Q: All right. Tell -- in layman's terms, let's talk about that. Talk about the methodology, how you -- and I think you said it, but I want to hear it again -- how do you arrive at a value if you know your net operating income and your capitalization rate?
A: You would take your income and divide it by -- on the first one, you would take $1,505,404 --

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Q: All right.
A: -- of Cypress Cove, divide that by $19,325,000, will give you an overall rate of the 7.79 percent.
Q: All right. So you get your cap rate by taking your NOI and dividing by the sales price?
A: Yes.
Q: Okay. And you did that for all of the other three comparables?
A: Yes.
Q: And you arrived at the overall rates of 7.79 for Cypress Shores, 6.91 for Belle Hall, and 8.05 for Alta Shores, is that correct?
A: Correct.
Q: What's the next line item? NOI per unit, what does that mean?
A: We're comparing the -- we're comparing the net operating income that each unit generates at the properties.
Q: All right. And those figures are reflected across the grid, is that correct?
A: That's correct.
Q: And now, what is the sales price per unit? What does that reflect?
A: The sales price is just the sales price divided

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by the number of units.
Q: All right. So do the math for Cypress Shores for me.
A: Cypress --
Q: Is that the sales price of $19,325,000 divided by the number of units?
A: Yes.
Q: Two hundred sixty-four units --
A: Yes.
Q: -- yields that figure of $73,201?
A: Yes.
Q: Okay.
A: What we're looking for there is the NOI of the units. The more NOI that the units can generate, the better the investment.
Q: All right. And then we have, we drop down, I see market conditions and it has zero percent across the board. What does that mean?
A: That I made no adjustments for the market conditions at that time.
Q: And why not?
A: They were all within the range of the dates within a year or so of the effective date of the appraisal.
Q: Okay. And then we drop down to time

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adjustments of the dollars per unit. Tell the Court what we did in this next part of the report.
A: There wasn't an adjustment for the time. You can see that the price per unit has stayed the same as we had earlier in the report.
Q: All right. And what is a NOI unit adjustment?
A: That goes back up to where we were earlier, that the NOI per unit, if it's better than you -- if there's more NOI, then it's a better product. If the subject has a better NOI than a comparable, then the comparable is inferior. You need to make an adjustment to get it equal to the subject property.
Q: All right. Well, I see Belle Hall as a negative NOI per unit adjustment.
A: Yes.
Q: Why?
A: If you look at the NOI per unit for Belle Hall, there is $6,636 per unit.
Q: Okay.
A: Versus the subject property that has $6,299 per unit. Therefore, Belle Hall is a better property at producing in the NOI. So a negative adjustment needs to be made to that to

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make it similar to the subject property.
Q: All right. And, well, let's talk about why the NOI per unit adjustment for Alta Shores is 23.8 percent. Why is -- how did you arrive at 23.8 percent?
A: Well, if you look at -- again, if you look at the dollars -- the NOI per unit on those, they were generating $5,086 per unit where the subject property was generating $6,299. Therefore, they were an inferior property for producing income and had to be adjusted upward.
Q: I see. All right. What is fully OAR adjustment, next line?
A: That's the overall rate adjustment. If you look at the overall rates up further in the report, you'll see that on Cypress Cove, they had a 7.79 percent overall rate where the subject had a 7.5. The lower the rate, the better the property is considered. So the 7.79, we needed to adjust that for comparing it to the subject property.
Q: All right. So how do you arrive at a 3.7 percent adjustment?
A: If you look at -- if you look at page 34 of the report --

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Q: All right.
A: It walks you through how the calculations are made. You'll see there where it's adjusting for the overall rates. It has that 7.5 percent minus the 7.79 percent. Then you divide it by the 7.79 percent.
Q: Okay.
A: Which gives you a 3.7 percent adjustment.
Q: And you use that same methodology on page 34 to arrive at the OAR adjustment for the remaining two sales comparables?
A: Yes, you use the same process.
Q: All right. And then we arrive at a net adjustment. And tell us what the net adjustment is. Is that the OAR plus the NOI per unit adjustment just added together?
A: Correct.
Q: Okay. Tell us what this last figure, value of range per unit, means. What does $83,580 for Cypress Cove mean, and the corresponding values for Alexan Belle Hall and Alta Shores, what is that figure?
A: What is does is it takes the two adjustments that we talked about, the NOI per unit adjustment and the overall rate adjustment, and

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adjusts those per --adjust it on a per unit basis, either up or down, whether it's comparable or whether it's a negative or positive, whether the subject is either better or worse, to arrive at a dollars -- an adjusted dollars per unit. And you'll see, on Cypress Cove, the adjusted dollars per unit is $83,580; Alexan Belle Hall was $82,950; and then Alta Shores was $82,558. You then take that number and multiply it by the number of units to get your total value.

Q: Okay. Again, tell me what that value range per unit means, again. What does that figure mean?

A: It's giving us a range of values for the subject property based on a dollars per unit, when we take the total 200, to give us a total value. This appraisal was done on 200 units. So, if we took those numbers and multiplied them by 200, it would give us a total value range for that property.

Q: Okay. Let's go to page 37 and there's the title of, summary of sales and comparison conclusions. I don't really want to talk about the 17 million down at the bottom of the page, because that's not the purpose for which we

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want to use this data and this information in this report. But let's talk about what is -- what does the grid of numbers up at the top mean when we have GIM, NIM, Moye/SF, Moye/Unit? Walk the Court through what this means, and what does it reflect?

A: Gross income -- the gross income multiplier and the net income multiplier are just multipliers. You take the net income and multiply it to get a total value for the property. So you have the net income multiplier between 15,646,716, the value on the low side, to eighteen million two hundred twenty-nine. The Moye square footage is what we just went over, those two grids, square footage and per unit. If you look below, there's a description of how these numbers were calculated and what the ranges mean. But again, you go from the low, like we discussed, dollars per unit to the high, multiply it times the number of units that you have, and it gives you a value.

Q: And this third column says, most comparable. Where is that -- what does that column reflect?

A: That was the comparables who had the lowest amount of adjustments.

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Q: All right. Well, gross income multiplier, looking across to most comparable, $17,500,000, where did that figure come from?

A: They came from the calculations on -- you see the net income multipliers on page 32?

Q: If you will direct us to where on page 32.

A: Page 32, the bottom. The bottom two lines, you'll see you've got an effective gross income multiplier of 7.72.

Q: How do you arrive at $17,500,000 on page 37 under most comparable?

A: Well, you end up -- you go to the ones with the low -- it's the one with the lowest amount of adjustments that, when you do these, that you figure it up on. If you -- like I said, if you look at the 7.72 -- 7 point -- Alta Shores would be the lowest at 7.06.

Q: All right. What do you do?

A: You multiply the 7.06 times the effective gross income.

Q: 7.06 times the effective gross income, which is what figure?

A: The effective gross income of the property at Alta Shores at two million one hundred and forty-eight.

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Q: All right. And that will reflect or calculate to be $17,500,000?

A: Yes. I don't have the calculations right here.

Q: That's your sales comparison approach. In general terms, what did the sales comparison approach, what did the data show you?

A: It gave us -- gave me a range of values that I could look at that were similar to the subject property once they were adjusted.

Q: Okay.

A: To make a decision on what I thought the property was worth, based on these comparables.

Q: All right. Let's talk about your second methodology, the income approach to value. What is the income approach to value? What does that mean?

A: You calculate the income of the subject property and you apply a capitalization rate, an overall capitalization rate, to arrive at a value.

Q: All right. Is that sort of what we just talked about in the sales comparison approach?

A: It's similar, yes.

Q: Okay. All right. Well, let's talk about -- let's talk about page 39 and it's subject, re

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rents and analysis. What is that?
A: Those were the rental rates that I had calculated for the subject property, based on the different units during different times of the year.
Q: All right. Well, let's just walk across the first line. You've got four headings: 6-03, 2-04, 8-04, and 2-05. What does that -- what do those represent?
A: They represent -- there is a -- there is a report that is put out by the Carolina Real Data Apartment Market Report, and those are the dates that the report was put out. And in this report, they typically but the recorded rents of different complexes, including the subject complex, through the Charleston area.
Q: All right. Well, it says, Carolina Real Data Apartment Market Report's date of July 2003, March 2004, September 2004, and March 2005, but the dates at the top are a month earlier than the dates stated. Why is that?
A: I believe what they do is they research, they send out the data for the apartment managers to send back to them, then they put out the reports the next month.

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Q: All right. Then let's look at the first line. This has 1/1. What does that mean?
A: That was the type unit that I was looking at, the 1 -- they were 1/1s.
Q: What does that mean?
A: They were one bedroom, one bath units. There were several different types of one bedroom, one bath units in this -- this complex, and I broke it down into four, and was assigning rents based on what the Real Data Apartment Report was reporting.
Q: All right.
A: Because they charged -- in some cases, they charged different rents.
Q: So let me see if I understand what this chart reflects. At the bottom, it has, 3/2. That means a three bedroom, two bath unit?
A: Correct.
Q: And if I go over to the column of February 2005, a three bedroom, two bath unit would rent for $1,375 a month?
A: That unit, that type of --
Q: That type of unit?
A: -- three bedroom, two bath, correct.
Q: Okay. Let's flip the page to page 40, and if

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you can tell us what those, that chart at the top of the page reflects.
A: That is the breakdown in the subject property's units, and there were going to be eight units that I was calculating that had 787 square feet at a rent of $685 per month. And that's what I did for all of the different groupings.
Q: All right. And that's the 200 units of The Legends when it was an apartment complex?
A: That's correct.
Q: All right. And that far right column that has no M, but I guess that's monthly rent, reflects a total of $183,840. That would be the monthly total rent of 200 units?
A: That would be the total monthly rent that they should have been receiving with those rents.
Q: And the next figure by itself shows annual, and that figure being $2,206,080, right?
A: That is the monthly rent multiplied by 12, correct.
Q: All right. Real quickly, let's talk about vacancy and collection loss. What is vacancy and collection loss?
A: Vacancy is the physical vacancy of the property. If the unit's not rented, it's a

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vacant unit. Collection loss is the inability of the landlord to collect his rent.
Q: All right. Where did you get the data from?
A: I've looked at other complexes and had data on other complexes that showed information. I looked at the -- for the vacancies, the real property, the Carolina Real Data Apartment Market Survey. I had some information from the subject property from past years.
Q: What did you conclude was the vacancy rate for The Legends as of 12/31/2003?
A: Vacancy and collection loss was calculated at eight percent.
Q: And that's that last line on the page, correct?
A: Correct.
Q: All right. What about concessions on the next page, 41? Talk about -- what are concessions?
A: Concessions are -- is money given off -- or a concession given to a renter for renting the units. In this case, the subject property in other complexes were giving concessions to a renter that comes in and they say, our rent is $685 a month, but we will give you a month free on a 12 or 13 month lease. So they are getting concession to their rent.

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Q: All right. And what did you conclude with concessions for The Legends as of 12/31/2003?
A: It would be four percent of potential gross income.
Q: How did you arrive at that?
A: I looked at the concessions that were going on in the area from different apartment complexes that we've done surveys on. And four percent was what most of them, more or less, were giving. There were some that were giving less. They were just giving -- waiving administrative fees or waiving deposits. Others were giving, like I said, a month off or half a month off on a 13 month lease or 12 month lease. So I felt four percent was representative of the market at that time.
Q: Okay. And then we look at other income?
A: Correct.
Q: What is that?
A: That's income that they -- that the landlord collects, other than rent. It can be concessions. It could be rental units of washer and dryer. I don't want to say royalties, but splits with the company. It can be rental of the clubhouse. It can be pet

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deposits, that type of thing, pet fees.
Q: All right.
A: That type of thing.
Q: And these different categories we're talking about are all line items on an operating statement, right?
A: Correct.
Q: Which we're eventually going to get to on page 43 at the bottom, right?
A: Correct.
Q: Okay. Expenses, talk about what you do when you look at expenses.
A: You look at the expenses of the subject property, the day-to-day operating expenses for --
Q: Well, before you get there, what did you conclude as the other income -- what was the amount of other income that you used for The Legends as of the 12/31/2003?
A: I calculated it as eight percent of the rent collected.
Q: All right. And tell us how you arrived at that figure.
A: I looked at the history of the subject property and they had been receiving, in 2002, 7.9

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percent of rental income. In 2003, it was 8.1 percent. In 2004, it was 7.8 percent. So we had -- I had kind of a track record of what they were collecting as a complex, and I estimated eight percent was a reasonable figure to calculate it on, based on the history of the property.
Q: All right. Now, let's talk about expenses, and I'm going to ask you questions on each of the line items. Hopefully, you can answer my questions in one or two sentences each. Tell us -- you look at expenses to arrive at --
A: Am I getting too wordy for you?
Q: No. This is just very dry material. You're enjoying it?
MR. RODGERS: This is good stuff.
Q: Okay. Let's talk about expenses, then, all right. What do you look at when you consider the expenses of an apartment complex?
A: You look at the expenses that it takes to operate the apartment.
Q: All right. And are those different kind of expenses reflected on page 42?
A: Yes, they are, how I calculate --
Q: Utilities and services?

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A: Yes.
Q: Repairs and maintenance?
A: Yes.
Q: Payroll?
A: Yes.
Q: Management?
A: Yes.
Q: Insurance?
A: Yes.
Q: Taxes?
A: Yes.
Q: Reserves?
A: Yes.
Q: All right. All I want you to do is tell me, when I asked you about utilities and services -- well, and I left out general and administrative on page 41, but there's no amount or percentage calculated for general and administrative. Why is that? Oh, there is. I'm sorry. What is that percentage?
A: It's -- I said it typically runs between two and a half and three and a half percent of potential gross income. And just -- I estimated that three percent was reasonable for the subject property.

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Q: Utilities and services?
A: I did the same thing, found the range of what the typical expenses were for these type of apartment complexes, they were two and a half to three percent, and calculated a range.
Q: All right. Now, you say the expenses, typically, under utilities and services, the expenses, typically, are two and a half to three percent of PGI?
A: Correct.
Q: What's PGI?
A: Potential gross income.
Q: Okay. Repairs and maintenance?
A: Again, find what is typical for a typical apartment complex of this type and arrive at a -- what I felt was reasonable for the subject property.
Q: And what was that?
A: Five and a half percent of PGI.
Q: Let's talk about the payroll. What was your -- the rate of percentage to PGI?
A: Eight percent of PGI.
Q: Okay. And management, what was it for -- what's the management --
A: The management was 4 point --

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Q: -- percentage?
A: Management was 4.3 percent of potential gross income.
Q: How did you arrive at that?
A: It's a fee that -- it was a fee that was negotiated, I guess, with HUD, on the property, what the management fees could be for the subject property.
Q: All right. So you arrived at that figure from looking at the management fee arrangement with HUD on the subject property?
A: Correct. And it said that would be the maximum they could get.
Q: All right.
A: And then I would -- I applied a 4.3 percent PGI.
Q: Let's talk about insurance. What is your insurance percentage?
A: The insurance percentage ended up being 4.2 percent.
Q: All right. How did you arrive at that?
A: I believe that what I used on that one was an insurance that the subject property -- or the owner had provided me. The amount was $93,559, so I used what he had provided me was his

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insurance, and it came out to be 4.2 percent.
Q: All right. And the next category, taxes, are those property taxes?
A: Correct.
Q: Okay. Property taxes from the reassessment?
A: Yes, or the value, right.
Q: And what did they amount to?
A: Between eight and ten percent of potential gross income.
Q: All right. And then the last line item is reserves. What does that reflect?
A: Reserves -- reserves are money put aside to replace capital items, such as roofs and things of that nature. The property was required by HUD to put a certain amount of reserves to the side, so I used that number that HUD was requiring them to put into the reserve account.
Q: All right. And let's turn to page 43. There's a chart at the top of the page. Is that basically a recap of what we -- you just went through, only assigning a dollar amount to the percentages?
A: Correct.
Q: For the various line items?
A: Correct.

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Q: All right. So tell us what that chart reflects. What does that mean? What does that show?
A: It shows that, on a per-unit basis, that the subject property would have expenses of $4,184 per unit.
Q: Which translates into what of the PGI?
A: Well, you subtract that from the PGI or you -- or from the EGI, actually, the effective gross income. You subtract those expenses and it will give you a net operating income.
Q: All right. Let's drop down on that same page, and it says reconstructed operating statement. Will you go through that for us with the Court and tell us what that -- what that reflects?
A: What that reflects is, we're reconstructing all the information that we just discussed, that the potential gross income is the gross income that the property will receive, based on the rents that were calculated. This, it was $2,206,080. We take out -- we subtract the vacancy and collection loss of eight percent. We subtract the concessions that are given from that in order to get a what we call a net rental income. Then we add the other income

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into it, because that's other income coming in, to give us an effective gross income of $2,096,658. Then we subtract the expenses from that of the $4,184 a unit to give us $1,259,711. So that's net operating income to the subject property.

Q: All right. And what is 6,299/unit?

A: That is the net operating income per unit that the property generates.

Q: Okay. How did you -- let's wrap it up on page 44 with the capitalization rate. If you'll, again, tell Your Honor what a capitalization rate is, what it reflects, and how you arrived at the appropriate capitalization rates in your report.

A: What I do is I take -- I look at the sales price of the -- the comparable properties, get the net operating income for those properties, divide that, and that'll give us a net -- or an overall rate of what people are buying property for. We can then take that rate and apply it to our net operating income that we just calculated to arrive at a value.

Q: All right. And what was your capitalization rate for the subject property?

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A: The capitalization rate is seven and a half percent. And as you can see, that falls in the middle of the range of the properties.

Q: All right. This -- at the bottom of page 44 is something called the Korpacz National OAR for Apartments. What's Korpacz?

A: Korpacz is a publication that's put out for commercial properties. They do a lot of research and studies on commercial properties.

Q: All right.

A: And what this was used for was to see if the rates that I was calculating from the market were reasonable compared to other apartment complexes nationally at certain times. And from this, you can see that the rates that were given by Korpacz at different times of the year coincide with the rates that we were finding for apartment complexes in the Charleston area at the time.

Q: All right. The data that you used in this report that you did back in 2005, I believe, was based on a 200 unit apartment complex, correct?

A: This appraisal was done on a 200 unit apartment complex.

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Q: And is it your understanding that the assessor's office used the same data to arrive at its analysis of the highest best use of the 121 single family condominium units as if it were apartments? In this appeal, did the assessor use the same data you used, but just extrapolate it down to 121 units, not 200 units?

A: Yes.

Q: Okay.

A: And that was the purpose of this exercise, was just to go over the data and the information with the Judge so she would -- so we could lay a foundation for what we are going to talk about later?

Q: That's my understanding, yes.

A: Okay. I have no further questions of this witness, Your Honor, if Mr. Rodgers would like to speak with him.

MR. RODGERS: Thank you, Your Honor.

MR. EVERMAN - CROSS-EXAMINATION BY MR. RODGERS:

Q: Mr. Everman, nice to see you again.

A: Nice to see you.

Q: Your valuation of this property as an apartment complex can be done very quickly, can't it? We

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take the NOI, net operating income?

A: Correct.

Q: Divide it by the cap rate?

A: Correct.

Q: All right. Plug those numbers in for me. NOI for The Legends was one million two hundred fifty-nine, wasn't it?

A: Fifty-nine seven eleven.

Q: Fifty nine seven eleven. You calculated a cap rate of 7.5 percent?

A: That is correct.

Q: Which is .075?

A: Correct.

Q: All right. So, if we divide $1,259,711 by .075, we get $16,796,146, right?

A: That is correct.

Q: And that's in your report.

A: That is correct.

Q: All right. That's the -- that's your calculation of the value of The Legends as of 12/31/03?

A: That's my calculation of The Legends, of 200 units of The Legends as of 12/31/03, correct.

Q: The exact same date we're looking at in this case?

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A: Correct.
Q: All right, 200 units. So, to get a value of 121 units, all we would have to do is pro rate that, 121 divided by 200, take your valuation for 200 down to the valuation for 121 units, that number, .0605. And then to come up with a value --
A: It's not as simple as that. It would depend upon the units that were still in place with the 120, because there are different rents associated with those units. So your numbers could change, because, if the rents are different than the 121 that you're pro rating it off of, the values would be different.
Q: All right. A rough approximation, would it be fair to take your value for 200 units, pro rate it down to 121 units? We're looking at the same date.
A: Looking at the same date, but, like I explained, you would have to find out what units that were still available, apply the appropriate rents to it, walk through the same process that we just walked through.
Q: All right. I hear you. If we pro rate it down using that analysis, your number times a pro

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rated number, ten million one sixty-one? Have I got that right? Ten million one sixty-two. Am I coming up with the right number? Is that a way --
A: It's not the way we appraise, but, if you use that simple math and you're just doing a math lesson, then, yes, that is the number you would come up with.
Q: All right. So that valuation, as of the same date, using your numbers, we just pro rate it down from 200 units to 121 units, is $10,100,000. Were you at the Board of Assessment Appeals hearing?
A: Yes, I was.
Q: All right. Did you talk to them?
A: The Board of Assessment Appeals?
Q: Yes.
A: Yes.
Q: All right. They came up with a value of $10,090,000, didn't they?
A: I don't remember the exact number.
Q: All right. This is an exhibit from -- this is their document.
A: Okay.
Q: That's pretty doggone close to your

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calculations, just pro rated down, isn't it?
A: Well, that's not my calculation. That's your calculation.
Q: My calculation, based on your numbers.
A: If you take the simple math and divide it, correct.
Q: All right. Your goal, when we were doing your calculations, was to determine a fair market value of this very property, the 200 units, as of the same date we're looking at in this case, 12/31/03, right?
A: That is correct.
Q: And you did your analysis before this case ever -- you didn't do your analysis as a part of this case, you had already done your analysis.
A: That is correct.
Q: All right. We don't have any big problems with your analysis. We think you're in the ballpark.
THE COURT: Anything on re-direct?
MR. FERRARA: Yes, ma'am.
MR. EVERMAN - REDIRECT EXAMINATION BY MR. FERRARA:
Q: Is the methodology of pro rating the 200 units down to 121 and then applying that against the value that you arrived at in your report, is

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that accepted methodology in the appraisal practice to arrive at a value?
A: No. As I stated earlier, you would have to go through the same process that we went through with the 200 units to arrive at a value for the property at 121.
Q: Okay.
A: Not just simply dividing -- taking my number and dividing it by 120.
MR. FERRARA: I have nothing further of this witness, Your Honor. Thank you.
THE COURT: Thank you. Thank you, Mr. Everman.
MR. FERRARA: Your Honor, at this time, I'd like to move to have his report into evidence, which is Petitioner's Exhibit Number Four, and Petitioner's Exhibit Numbers One, Two, and Three.
(Petitioner's Exhibit Number Four was admitted into the record.)
(Petitioner's Exhibit Numbers One, Two, and Three were already admitted on page 30.)
MR. RODGERS: Have I already looked at them? I know his report, obviously, I don't have any objection to it.
THE COURT: Okay.

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MR. RODGERS: What's the others?
MR. FERRARA: The UMRE, the owners of the individual units.
MR. RODGERS: That's fine.
THE COURT: Okay. There is no objection to those going into evidence. Okay, they're admitted with no objection.
MR. RODGERS: Your Honor, I always like to make clear, when I'm not objecting to an exhibit, that I think the foundation has been laid for you to consider it.
THE COURT: Right.
MR. RODGERS: I don't agree with, necessarily, the contents. Although, with Everman, I think he's pretty close. But Sawadske's individual valuation, obviously, I don't agree with.
THE COURT: I understand. Thank you. Now, at this point the time is about, what, five minutes after 1:00. Why don't we take maybe an hour's break here and then come back and resume, let's say 2:15.
(A lunch break was taken from 1:05 p.m. until 2:13 p.m.)
THE COURT: Okay. If everyone is ready, the hearing is reconvened and we are ready for your next

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witness.
MR. FERRARA: Thank you, your honor. Bernie Ferrara, again, for the Petitioner. I'm going to call Mr. Gary James to the stand, please.
THE COURT: Okay.
GARY JAMES, having been duly sworn, testified as follows:
MR. JAMES - DIRECT EXAMINATION BY MR. FERRARA:
Q: Mr. James, if you would state your full name for the record, please.
A: Gary James.
Q: And Mr. James, tell us who you work for.
A: I work for the Charleston County Assessor's Office.
Q: And how long have you been working for the Charleston County Assessor's Office?
A: Approximately six and a half, seven months.
Q: All right. And before you worked for the Charleston County Assessor's Office, where did you work?
A: I was an independent fee appraiser for approximately 17 years.
Q: All right. And before you were a fee appraiser for 17 years, were you employed otherwise?
A: Yes. I have worked for -- as a leasing agent

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for Bell Atlantic NYNEX Mobile, Crown Castle, environmental clean-up companies throughout the whole Northeast.
Q: All right. And what are your job duties with respect to your employment in the Charleston County Assessor's Office?
A: I'm the commercial appraisal supervisor and litigation specialist.
Q: All right. Is this your first appearance in a courtroom in your job with the Charleston County Assessor in that job title?
A: In a courtroom. I have -- I have testified in front of the Board of Assessment Appeals.
Q: Okay. We'll to get to that.
A: Okay.
Q: Well, why don't you just tell us what kind of properties you appraise in the assessor's office and tell us about what properties you appraised in your past employment?
A: Okay. In the assessor's office, I appraise everything from residential properties on up through commercial, industrial, vacant land, multi-family, condo complexes. Since I've been there, I have done mostly review. I have done four or five appraisals, multi-family/condo

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conversions, and commercial industrial conversions to mixed use conversions in downtown Charleston, as well as reviewing the other commercial appraisals done by some of the staff, as well as the residential appraisals that are done under Steve and other supervisors as kind of a -- a check for -- in the review process to make sure they're -- they're consistent reports, etcetera.
Q: All right. Did you do similar sort of appraisal work in your 17 years prior to joining the Charleston County Assessor's Office?
A: That's correct. I spent about eight years doing tax appeal work in the State of New Jersey, appeared in front of the Tax Appeals Court in the State of New Jersey. I'm licensed in both the State of New Jersey and the State of South Carolina as a certified general appraiser, which means I have the license or the certification to do any size property and any type of property that's requested. I worked for banks, mortgage companies, independent organizations, states, attorneys' offices, various different, as well as on the

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appeal side, working for towns and against towns, so I've worked on both sides of the aisle, so to speak, in terms of testifying.
Q: All right. And if you will, then, just briefly describe for the Court your educational background.
A: I have a bachelor of arts from Williams College in Massachusetts; I have graduate work in architecture and landscape architecture from Cornell University in Upstate New York, as well as University of Colorado in Denver. I have a master's in business administration from Boston University.
Q: All right. And you may have touched on it, but any certifications or licenses that you have?
A: Yes, I'm a certified general appraiser in South Carolina, as well as New Jersey. I have all of the -- obviously, the courses to get those licenses, as well as the continuing education for the last 17 years to keep my license current.
Q: All right. Have you testified in court before as an appraiser?
A: Yes, I have.
Q: And have you ever been qualified as an expert

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as an appraiser?
A: Yes, I have.
Q: Will you tell me what you've been qualified as an expert, in the field of appraising or is it as an appraiser on valuation of real estate?
A: Yes.
Q: Okay. Anything more specific than that?
A: No, I mean, I've done it for tax court, general appeals court, marital family court, as an appraiser for reports that I have done both commercial and residential.
Q: So if you had to just give a recap of how many years you've been in the appraisal business, how many?
A: 17 years.
Q: Okay.
MR. FERRARA: Your Honor, at this point, I'd like to qualify Mr. James as an expert in appraisal and valuation of real property.
MR. RODGERS: No objection, Your Honor.
THE COURT: Okay.
MR. FERRARA: All right.
THE COURT: He's so qualified.
Q: Well, then, Mr. James, let's turn right into what's been marked as Petitioner's Exhibit

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Number Five.
A: Is that in this book?
Q: That is in that book. And if you will, just tell us what that document is.
A: It's an appraisal consulting report which I completed. It's entitled, Appraisal Consulting Report for the Premises of 121 Condominium Units Which Are Part of The Legends Horizontal Property Regime in Mount Pleasant/Charleston, South Carolina.
Q: All right. Let's talk about what you did to produce that report. What did you do to produce that report?
A: I was asked by the assessor's office to consider the subject property, which is 121 individual condominium units, and rather than prepare an appraisal report, I prepared an appraisal consulting report, the difference being that I was looking at other reports and the results from other reports and combining them with this report with the goal to determine the highest and best use through analysis of the 121 individual residential single family condominium units that are the subject properties. Because I did not come up

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with a value, others did -- as we heard this morning, Angela came up with a value of these. I reference those. So my report did not come up with a value, so in that sense, it wasn't an appraisal report, it was an appraisal consulting assignment. And as such, it was the highest and best use analysis to determine that such for the subject property.
Q: We'll get to that here shortly. And you were present in the courtroom and Mr. Everman's testimony and in your consulting report, did you extrapolate some of the data that he used in his report done back in 2005 when the subject property was an apartment complex and use that data and information in your consulting report at some point in time in that report?
A: Yes, I did.
Q: Okay. Well, let's talk about the change of conditions and what triggered the valuation of this property as single family residential condominium units.
A: As noted earlier and in your opening statements, in April of 2006, the owner of the property filed an HPR, horizontal project --

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project -- horizontal -- I'm sorry.
Q: Property.
A: -- property regime deed which in essence was in layman's terms the subdivision of one property into 200 individual units, plus a common area. So, in essence, I think, though I don't go and count them everyday, I think we have 201 property identification numbers, one for the common area, 200 for the unit, that used to be The Legends apartments which are now The Legends condominium or HPR. So that change in condition of the subject property resulted in the need, because prior to that date we had one value for the entire property, we meaning the assessor's office, the identification for the property was one property identification number. So that triggered the need to have individual property IDs for each of the condominium units, as well as the common area, which stays with the overall complex. As such, we then look at what the subject is as of that date, when that change occurred for the subject, and look back as of 12/31/03, which was the date of the last reassessment, as to what it would have been on that date.

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Q: Is that -- is that -- what is that kind of look back called?
A: A retrospective appraisal. I believe that's what you're asking.
Q: That is what I'm asking.
A: Okay.
Q: And your date of value, when you look back, was -- what was your date of value?
A: 12/31 of 2003.
Q: Okay. And when you looked back at 12/31 of 2003, what did you look at to -- what would you look at to help you to value of the property?
A: Okay.
Q: What are some of the factors?
A: Right.
Q: What are some of the conditions?
A: Okay. What we looked at as of 12/31/03 were the market conditions as of 12/31/03. Now, what we have is the condition of the property as of 12/31 or 2006, it changed to condominiums. So now we look at condominiums as if they were condominiums at the end of 12/31/03. So we're looking at that subject condition with the market conditions as of they existed in 12/31/03. And with a retrospective

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valuation, we only know what occurred on that date. Now, we're doing this report today. We know what happened since '03. We know that there have been ups and downs in the market. But as of 12/31/03, we needed to look at basically what we knew then or prior to that point. So I looked at the market itself, what was acting in the market, what changes had occurred in the market over the previous few to several years, to determine what may have influenced the subject value as if it had been condos on that date.
Q: All right. Now, when you say you looked back at this retrospective value, do you look at the subject 121 single family residential units as -- as if it's the Respondent's LMP Properties, Inc., his property, its property, or do you look at other -- what other real property existed in 2003?
A: Let me see if I understand what you're asking. I'm looking at the subject 121 units, but I'm also looking at the overall market at that time. I'm looking at the subject as it was configured as a result of the HPR in the scenario of 12/31/03.

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Q: Okay. And maybe I wasn't very good in my question, but you look at that subject property retrospectively and you base the values on what?
A: The conditions that were in existence in 12/31/03.
Q: Okay. Do you base it on real properties as they existed in the year of the equalization reassessment, which was as of 12/31/2003?
A: Correct.
Q: Okay. And that's what you look at, is that right?
A: Right.
Q: Real properties as they existed --
A: Right.
Q: -- in that reassessment year?
A: Right, I'm --
Q: Okay.
A: Yeah, I looked at comparable sales and market conditions as they would have influenced the market as if you were to buy or sell a property of any kind in that market.
Q: Got you. All right. You look at economic conditions, as well?
A: Absolutely.

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Q: Market conditions?
A: Right.
Q: All right. Anything else?
A: You look at -- you look at prime rates, vacancy rates, trends to that point in time. Obviously, 9/11 happened two years prior to that. We had a dip in the economy. It was on an upswing. Prime rates were at the lowest point they had been in 30 years. We know today that they dipped and as of early '04, they went back up. That's the lowest point in the records nationally kept of any national mortgage rates. The prime rate was low. So you look at all those conditions. Obviously, we know what happened afterward, but we can't take that into account. We can only look at what we knew then and what we know may have confirmed those trends, but we know, you know, today what we know today, just like on that date, we knew what we knew then.
Q: Got you. Now, without getting into a full-blown discussion of this concept, but when you say you looked back to this date of value of 12/31/2003, is there some methodology that you endorsed to try to compare 121 single family

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units, condominium units, as if the property was as a condominium complex or an apartment complex? Is there some methodology that you use to begin your analysis?
A: In -- let me try to answer that.
Q: Okay.
A: I think I know what you're asking. In order to come up with a market value for the subject property, whatever that is, whatever the methodology that you use, the first step is obviously, you understand the subject, you understand the market. But then you have to determine the highest and best use for the subject property and there is a four-step process that we follow. Do you want me to hold off on that?
Q: Yeah, let's --
A: Okay.
Q: We're going to get to that.
A: Okay.
Q: I think that was enough for us to just --
A: Okay.
Q: -- wet our lips on. But let's now, we've talked about the change of conditions that caused the assessor's office to look back to

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that date of value in 2003 and begin some sort of analysis of the subject property. Let's now switch gears and talk about valuing the subject property, okay.
A: Okay.
Q: And let's talk about what we have before us that we're trying to value. What do we have before us?
A: We have 121 individual single family residential condominium units --
Q: All right.
A: -- within an overall entity or complex of 200 condominium single family units.
Q: All right. With 121 single family units, talk to us about 121 single family residential condominium units. Do you get different rights with the condominiums that you -- renters don't get if they're apartments?
A: That's -- that's --
Q: Speak to that.
A: Okay. It goes to ownership. When -- when a condominium is established from the HPR, each owner of those units, whether there's one owner or 200 unit owners, each have a stake in the ownership, the maintenance, the operations of

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that complex. And that's the complex of 200 units. So that's different from an apartment complex where your tenants pay rent and don't have any say in the operations, and the differences is -- is the -- the ownership rights. As a tenant, you don't really have any rights to the management or the maintenance. You may make a request to your apartment super that the door's not working or the plumbing leaks, but you don't have any governance over the fees that go to the maintenance funds, etcetera.
Q: All right. Well, I kind of want to get into this concept a little deeper and I want to know how you can value or determine highest and best use of 121 single family residential condominium units that are part of a 200 unit condominium community complex. How do you do that?
A: The simple answer is, you value each individual unit by itself. They are single entities. They are valued individually. In order to -- that's -- that is with the assumption that they are individual condominiums, which is the nature of an HPR. They've established -- they

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broke up the whole to make the pieces. Those -- the intent, I understand, if I read the HPR statutes right, the intention of an HPR is to sell the units to individual single family owners. Whether they choose to rent them or not, that's not really the discussion here, but generally, they're purchased in single pieces for ownership by individuals who are essentially buying a single family home, which happens to be attached and you pay a fee, a homeowners association fee that goes toward the maintenance of your exterior properties. I mean, there's an advantage and disadvantage to doing that. People want to have their own home, it's home ownership in South Carolina. You have a benefit of the four percent versus the six percent tax break if you own the property. That's a benefit that a tenant doesn't get. They don't pay the taxes, but they pay the rent, which ultimately does pay the taxes underneath. But the idea is that you value each of those condominium units as separate individual units. That's what Angela discussed earlier this morning. That's the valuation technique for valuing the complex.

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Q: And her testimony, or at least you heard it in my opening statement, 58 of those 200 condominium units have been sold to other owners?
A: That's my understanding in looking at the records.
Q: And those other owners, do they own a proportionate share of that beautiful fountain and the pool?
A: Yes.
Q: And the car care center?
A: Correct.
Q: The boat storage area?
A: Yes.
Q: Other common areas?
A: Correct.
Q: The child's playground?
A: Yes.
Q: So does a tenant -- I mean does a renter, if it was an apartment complex?
A: No.
Q: Okay. So let's -- in real basic terms, an apartment complex is valued as a whole, is that correct?
A: Yes.

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Q: And 200 condominium units are valued singly and individually and separately?
A: Correct.
Q: I know that's redundant.
A: Right.
Q: As my teacher in high school would say. Well, then, how do you look at the 121 condominium units to value out of a 200 unit condominium complex?
A: I'm sorry, say that again. How do you value the 121 units --
Q: Yes.
A: -- or how do you value them as an apartment complex?
Q: No, as condominiums.
A: You value them as each individual unit.
Q: Okay. Maybe I asked you that question already before.
A: Right.
Q: Okay. All right. Well, let's now move to I think what is really the heart of your report, and that is this highest and best use analysis that you touched on a couple of minutes ago. And if you will, describe, explain what this highest and best use analysis, what this

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concept is, what is this methodology, when do you use it, why do you use it, and then we'll get into how you use it.
A: Okay. I'll try to be brief.
Q: All right.
A: But the highest and best use is sort of -- I hate to sort of be general about it, but it's sort of the foundation that's the first step in determining what you should be looking at a property as when you're putting a value on it. When you look out at a single family house, it looks like a single family house, so you would probably look to value that as a single family house. And that's logical. You would think that that in -- and it's in a residential neighborhood, it would be a single family home would probably be the logical highest and best use. But sometimes it's not as clear and in those cases, we look at a four-step process where you look at two factors, whether something is physically possible and legally possible. They can be interchanged, which is first. In some places, they do them legally; some physically possible. In those two cases, you're looking at what government regulations

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are placed on the land that limit the development. We generally call that zoning. And other limitations, there may be other restrictions, deed restrictions or covenants that either a township or a county or a state might put on property development, CAFR regulations at the ocean or in waterways that limit what you can do. That legally limits what can be developed on a property. In the subject's case, multi-family, single family, condominiums are allowed.

Q: All right. So it meets the first one.

A: So it --

Q: Legally possible?

A: Right.

Q: Permissible?

A: Correct.

Q: What's the second?

A: The second would be physically possible.

Q: All right.

A: Will the land support the development; are the soils adequate; is it marshland or is it highland, as we call it in the Lowcountry; is there enough space for the number of units; are there -- you know, is -- does -- the land

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utility; is there access to the property; is it an island or is it, you know, access to major thoroughfares. Some of those things would determine whether it's physically possible.

Q: So is it physically possible to have condominiums?

A: Yes.

Q: Apartments?

A: Yes.

Q: Townhomes?

A: Yes.

Q: Okay. What's the third test?

A: The third test would be that those -- those uses that pass the first two -- if you don't pass the first two, you don't look at it for the third. And the third is financially feasible. And what we do here is we look at -- we take whatever is physically and legally possible and consider whether they are financially feasible. And we do a test. It is now a valuation of the property. It looks like a valuation, but it's -- it's a financial test. Basically, what we're doing is determining, does that use provide a return to the land. In other words, does it benefit the land. In

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other words, if you're looking at an investment, does it give you a return on your investment. So we looked at single family; we looked at condominiums; and we looked at apartments.

Q: All right. Let me stop you there.

A: Yes.

Q: Are you -- is your testimony that you did a financial feasibility test as an apartment complex and a financial feasibility test as single family condominium units?

A: We did not do single family units because that would have required -- we're looking at -- there are some little idiosyncracies to the whole test. You can do it as vacant or as improved. Or you do one and then the other. Generally, the as improved, if the improvements provide a benefit to the land, then you don't look at it as vacant. In this particular case, the single family analysis would require us to tear down the improvements and make detached single family homes. That doesn't make any financial sense. So it gets knocked early in the process and we look at just the other two, which are the -- as improved, it looks like,

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smells like, tastes like condominiums or townhouses or apartments.

Q: Okay.

A: All of those, they're basically the same as if it's improved the way it is.

Q: All right. So you did a feasibility analysis or a feasibility test as if the 121 subject units were an apartment complex, is that correct?

A: That's -- yes, that's correct. It was a test, right.

Q: And then you did a financial feasibility test or analysis as if the subject 121 units was as 121 condominiums?

A: That's correct.

Q: Okay. Let's talk about the financial feasibility test as if it was an apartment complex, okay.

A: Okay.

Q: And tell me what you did.

A: Okay. Let me preface both of these by saying that it was -- both of these are hypothetical analyses because neither of them existed as of 12/31/03. There was an apartment complex, but it had 200 units in it. So this is 121 units

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out of a complex of 200. So what I did was it made sense, since there were several reports in the office over the years from various different appeals, etcetera, the one that Steve Everman did which valued the 200 apartments as an -- 200 units as an apartment complex as it was configured at that time, I looked at that report and considered the data, the inputs from that report, to see if I could use that data to do a pro rata share and come up with a value extracting the data from that report down to 121 units.

Q: All right.

MR. FERRARA: May I approach the witness, Your Honor?

THE COURT: Yes.

Q: I'm going to show you what's been marked as Petitioner's Exhibit Number Six and is that what you're referring to as the data and information that was gleaned from Steve Everman's report that we discussed earlier?

A: Yes.

Q: Okay. What is this?

A: Reconstructive Operated --

Q: Petitioner's Exhibit Number Six.

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A: Page 69 of my report. It may have been marked separately.

Q: Can we run through that illustration for Your Honor? What does that depict?

A: Basically, what I did with this is I took the assumptions that Steve made in his report for 200 units. I looked at the breakdown of the various different units, the different models that he had described and Angela had described with the various different rents for the different models, looked at how many of the original units were now within that 121. So, if there were 33 and now there were only 20 of that specific unit, I multiplied that number times the rent for that unit, came up with a total rent per month for those units, totaled up all of the units that made up the 121 units, multiplied that times twelve to come up with the gross potential income of $1,297,200, which is a -- is basically a pro rata share of the rents based on the allocation of the units from Steve's report of the full 200 down to the 121.

Q: Got you. And I'm going to drop down right to the bottom of that illustration, it's marked in red and it's called, Indicated Value of 121

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Unit Apartment Complex as of December 31, 2003, and there's a figure, $8,565,000. What does that figure represent?

THE COURT: Now, tell me again, what page are we on?

MR. FERRARA: We're on page 69.

THE COURT: Page 69, okay.

MR. FERRARA: Of Petitioner's Exhibit --

A: Five. My report is five.

MR. FERRARA: Five, I'm sorry.

MR. RODGERS: What did you say the exhibit number is for that particular page?

MR. FERRARA: Petitioner's Exhibit Number Five.

A: Sixty-nine. Page 69.

Q: Page 69.

MR. RODGERS: Did you mark that page separately, though?

MR. FERRARA: I did mark it separately and that's called Petitioner's Exhibit Six. I'm sorry.

THE COURT: Okay.

A: The red --

MR. FERRARA: Have you found it, Your Honor?

THE COURT: I think I've got it here.

Q: All right. What does that figure at the bottom of that illustration represent?

A: That represents what our office and, through my

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extrapolation, what I feel, based on this hypothetical test, what this 121 units would be worth as if it were in an apartment complex as of 12/31/03.

Q: So that represents your conclusion of your financial feasibility test as if the subject property was an apartment complex, correct?

A: That's correct.

Q: Okay. Then you did another test, didn't you?

A: That's correct.

Q: And what was the other test you did?

A: I tested the hypothetical value of the subject as if it were 121 individual condominium units as of 12/31/03.

Q: All right. And how did you do that?

A: I looked at -- as has been mentioned before, you can look at various different ways to determine the value of -- essentially, what I use is the word sellout of a number of units in a complex or an entity. There is -- you can do the sales approach, the income approach, the cost approach. In this particular case, it's a combination of the sales approach and the income approach. In essence, it's a form of the income approach called a discounted cash

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flow.
Q: That's a lot of technical appraisal terminology. Tell us why you use this income approach and this -- to look at condominium -- as it was a condominium complex.
A: Okay. As I noted earlier, when the HPR was formed, the intention of anybody who forms a condo complex is to sell them out. They're not -- the intention isn't to hold them and rent them or you would just keep it as an apartment complex. So the idea is that you want to sell the individual condos, get out of the business, and if you're that kind of investor, you may go someplace else and do the same thing. But so if the intent is to sell them, unless the market is phenomenal, which there are some arguments that the environment was phenomenal in '03, I didn't make that argument in my report, but it was very strong for the sale of condominiums. So if it's not perfect and you can open up your shingle and say condominiums for sale and tomorrow they're all gone, you look at how long it takes to sell those condominiums over time. So you look at what -- and we call it a discounted cash flow because

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the cash flow coming in is over a period of time, some terms of net present value or we learned about it in college as the time value of money. Is it worth more today or is it worth to you more tomorrow as a different number, and you have to weigh how much you lose by not getting your cash today until tomorrow, so we have a factor that we apply to that, which is, in simple terms, is called a discounted -- discount rate. I won't get into that right now, but that's the idea, is that if it's going to be sold out over time, a developer knows it's going to take some time, he plans that. He looks at if he has to borrow money until he sells all the units, that's a cost of doing business and that cost is taken into account. So it takes time to get his money back.
Q: Okay. Well, I think this whole discussion is crucial, so I want to draw your attention and the Court's attention and opposing counsel to Petitioner's Exhibit, I want to turn our attention to pages 80, 81, and 82, and I'm going to hand you those three pages which have been marked as Petitioner's Exhibits Seven,

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Seven A, and Seven B. It's 80, 81, and 82. And if you will, let's talk about page 80, what that illustration represents. It's called a proposed schedule of sales and rental of units as of 12/31/2003. If you will, it has at the top, year zero, year one, year two, and year three. It's got a bunch of numbers on it. Walk me through it. Help me understand it.
A: Okay. First off, I want to apologize for the small numbers. This is an Excel spreadsheet that is, you can't fit it on the same screen when you're creating it unless you're wearing your glasses. I might have to pull my glasses out. I'm not going to get into the actual reading off all the numbers but how I came about some of these numbers.
Q: That's what we want to hear.
A: Year zero is your base year. That's through 12/31/03. You're looking at sales in the future or rentals in the future. That year, year zero, is called year zero because it doesn't count in your analysis. It's just a base year to start your numbers from. What you're looking at is several years, in this case three years, of what I propose it would

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take, based on market conditions as they were for selling condominium units as of 12/31/03, what those conditions told me, how long it would probably take for absorption of these units or sale of these units, to sell all 121 units and have the developer no longer be an owner or the owner no longer owning any of these properties, which was his goal or his or her goal when they established the complex, to get out of it, get their money back out of it. So you look at and I looked at, at the point of conversion, there were 200 units. Those 200 units began selling. In this particular case, we're looking at, if there were 121 units starting in year zero, which was the end of 2003, how long would it take to sell out those units, what the sale price would be on those units, and then any costs that you would incur to sell those units. Complicating the factor in this discounted cash flow, just to make it even more confusing even though it's already confusing, is that, unlike a subdivision sale where you have vacant land and the developer is selling lots, he developed this with an apartment complex and then he's converting it.

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Well, the question would be, what happened to all those people who were renting. They had rights. The HPR regulations actually speak to those rights, that you have 190, or 120 days if you're over a certain age, that you have a right to stay in those properties. You also have leases that perhaps haven't expired, all at the end of the year zero. You're not going to probably, if you don't count on selling all of these units in the first or second month of that year one, you're going to want to keep those people in your units. Most of them are going to take care of their units. They're going to air condition them so that mold doesn't grow in the units over time in the hot climate. So they're helping you to maintain them but you're also getting a benefit of the income. As Steve has mentioned, there is a -- you know, there's rent and I've pulled some of the rents from his reports to anticipate and utilize what the owner of the complex would have rented those units for before it -- the units were being sold. But you would keep people in those units to help out the cash flow while you're trying to sell. So, unlike a

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simple vacant land where you don't have any income coming in, you just hope you can sell the units, you have a cash flow that is coming from those rental units. And at some point during the process, you're going to vacate those units and sell them. Just like the owner has held out 20 to 22 or 23 units that are not part of this subject appeal for sale, in a sellout period, you're going to obviously have a few units vacant that you're anticipating selling in the next months or the next year. So you have a very complicated scenario and our job as appraisers is to make some sense of that complicated issue and put them -- boil them down to numbers. So what do you have? You have a sellout period of cash flow coming in as you sell each individual unit over, in whatever period of time, but you also have income coming in from the rental of the units and eventually, that rental is going to diminish as you have less and less units to rent and you have the cash flow coming in as you sell the units. So you have two factors in your income that make up the potential gross income and ultimately, the effective gross income.

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Q: And that's reflected in that illustration, and you just talked about the effective gross revenue, I believe, what you --

A: Right.

Q: -- just referred to as effective gross income in that blue bar. But for Your Honor, let's do this. Let's walk through year one and quickly just show how you calculated or what you did to get the unit sales of the various sale of condo units, one, two and three bedrooms; and then the unit rentals, which is the next graphic down; and then how you applied a vacancy and a collection loss and arrived at your effective gross revenue, just so Your Honor, when she has this sitting in front of her, she can go back and understand how these figures were calculated and how they relate to each other, okay.

A: Okay.

Q: If you can quickly go through that.

A: All right. As I mentioned, I looked at the market analysis to try to determine what the market was saying about absorption and how fast things were selling out. So I was looking at trying to determine what -- approximately how

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many units from the subject development would have sold in each particular year. It's an assumption that has to be made that has to go into your analysis. Given a couple of factors, I'm going to take a sidebar here to try to understand why I came up with these numbers. In Mount Pleasant, at this time, as of '01, 2001, there had been a permit allocation program that had been put in place, which essentially was like a moratorium on construction. Although it wasn't a moratorium, there was some -- what they tried to do, they felt they were growing too fast, so they limited the new construction. So in order to get a permit to build, you had to sort of be in line or they just divvied up the permits that were being given out. What did this do? It slowed down the new developers and allowed those who were already in existing buildings to convert. So the environment was almost an artificial environment that made it very advantageous for converting properties to sellable units. Whereas, apartments aren't sellable as individual units, these became sellable units as of 12/31/03 in this analysis.

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So my analysis is fairly aggressive. It's a three year sellout period. In looking at some of my comparables, if I can just go back to look at -- I believe I want to check the page where I looked at some of the sales. It's on page 73.

Q: Seventy-three.

A: Right.

Q: All right. Well, then, let me just ask you a question. Looking at page 73, but also looking at page 80, under year one, it looks like you sold 52 units.

A: That's --

Q: Thirty-four one bedrooms, 24 two bedrooms, and 4 three bedrooms; units sold, 52; is that right?

A: That's what I'm anticipating would have sold during this.

Q: All right. Why do you think you could sell 52 units in year one? And if you need to consult page 73 of your report, go ahead.

A: Right. I looked at -- in the top of page 73, and again, this chart is even smaller, and I apologize for that, but I looked at six comparable condominium developments in the

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Mount Pleasant area that -- and I looked at all of the sales from each of their developments for one bedroom, two bedroom, and three bedroom units and I looked at their sales, when they sold in each year, and the sale prices, price per square foot, and overall prices to sort of look at the absorption. And if you look on the left-hand side of -- I'm sorry, I even have to use my glasses for this one. Several of the condominium developments were converted to condominiums from apartments and in the year that they were converted, the sales were very, very strong. You don't have to look at the chart to understand what I'm saying. If you go down to note number three at the bottom, the market shows a good volume of sales within a three year period prior to the effective date of this report followed by a significant increase in sales of all units in '04 and '05. In 2003, Cambridge Lakes sold 83 units out of 104. In 2003, Daniel Landing sold 197 units out of approximately 100 -- out of 300. Ellington Woods sold 73 of 224 units. A caveat to Ellington Woods is that was a phased-in development, so, of the 224 units only about a

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third to a half had actually been built at that time. So that's an even higher percentage. So these are similar aged developments, they were converted in those years, and the sales just took off. Now, some of those were to existing tenants who bought their units to which they had a right. But the sales were very, very strong. So anticipating 52 units to be sold in year one is not an outrageous assumption. In '03, things were hot. You had an artificial market in Mount Pleasant with the permit allocation program at that time. So, if you had a condo that could convert, you had -- I'm sorry, an apartment complex that would convert to condos, you could sell units at a fairly brisk rate.

Q: All right. Well, let's then talk about the second block of the potential gross revenues, which is the unit rentals. And if you will, let's stick with year one and walk Your Honor through how you selected 25 one bedrooms for rent and 18 two bedrooms and six three bedrooms for rent and what -- you selected 49 units rented and the corresponding potential rental income. Walk us through those numbers.

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A: Okay. This one is a little bit more complicated. If you assume that, in year two, 40 units would sell, you would assume that you would take probably all those units offline and not rent them at some point during that year. So, if you assume that they're going to be sold throughout the year, let's say you take half of them off in the first half and half off on the second and they end up selling, so you take the number of units that have sold the prior year or during that year, take those out of the mix, and then half of the ones that are selling the next year. If you can get the gist, you can't rent the ones that have already sold this year and you can only rent the ones that are going to sell next year for about half the year because you're taking them off to save them to sell. So I'm using a conservative estimate that you can't rent them up and then knock on their door and say, out, we're selling your unit. You have to let them -- their leases expire, they move out, and you're going to have a huge vacancy. The numbers that are just corresponding to those units times the annual rental for those units.

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Q: Okay. And that 49 is correlated to that figure 40, which is diagonally above it --
A: Right.
Q: -- in year two, which are the units sold and potential sales income. There's a figure 40 there.
A: Right.
Q: And that's what you're referring to?
A: Right.
Q: Okay.
A: Right. That's part of the number. Half of that number and some of the ones this year. It's easy to understand once you get the picture, but it's half of next year, all of what's left this year, but you have to subtract the ones that sold last year because that's all you have left. I try to be conservative in that number, not -- figuring a couple of things. And I'm going to talk now, I'm going to go to the next step, which is the vacancy and collection loss.
Q: Well --
A: It's still above --
Q: Yes.
A: -- effective gross revenue.

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Q: Yes, let's go to the third box.
A: Okay.
Q: Let's --
A: Okay. And that is -- I've used a 20 percent vacancy. That number is 20 percent of the rental units or rental income, not the sales income. And that, again, is a corollary to the fact that you're going to have people who are living there and saying, I might as well start thinking about moving now, because I'm going to be kicked out in a year or six months or whatever. So your vacancy may be much higher than what would normally have been in that scenario. So I put in a 20 percent vacancy assuming that.
Q: Is that conservative?
A: It's a conservative number.
Q: All right.
A: Obviously, a higher vacancy is much more conservative on the revenue side.
Q: All right.
A: Collection losses is the number I used from Steve's report. I don't anticipate that it would be -- the circumstances are not any different. You're going to get certain people

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who don't pay or you can't collect. I don't anticipate that changing because of the circumstances.
Q: All right. And so then we have this figure of effective gross revenues of $7,626,352 at the end of 2004 or representative of year one, is that right?
A: That's correct.
Q: And then we further the analysis by, what do we do next?
A: We have to look at the expenses --
Q: All right.
A: -- that we have to generate that rent.
Q: All right. Let's go through those expenses.
A: Okay. Simply, there are two major categories. There are the operating expenses to operate the subject properties and the sales and marketing costs in order to sell those properties. So I've separated those out. Some of them you could argue could go on either side, but in general they're broken down in that respect. The real estate taxes are obviously operating income or unsold units. They diminish over time as you sell the units. They're based on each individual unit. There are homeowners

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dues. The assumption is that, as part of the overall regime, these 121 units are part of 200. So there's a homeowners association that has, in this case, 57 or 56, maybe less if a couple of people own more than one unit, owners plus the subject owner of the 121 units who all participate as, as I said earlier, owners in the management operation of this regime. So the assumption is that, in a typical scenario such as this, the owner would pay homeowners dues to the association to manage the common area and whatever expenses they might have for the complex itself. It's above and beyond the 121 units. And that's -- that goes back to that same statement, it's -- it's not by itself, it's part of a bigger whole. Those are just taken out of the documents that were provided to Angela at the time that she did her appraisal.
Q: All right. Insurance, maintenance, replacement reserves and miscellaneous.
A: Okay. Insurance is basically liability insurance as the owner. People get renters insurance if they're renting from the owner at the time, but the owner has to have liability

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insurance and any other type of insurance that he or she is paying for for the overall structure as a landlord. You don't want to be sued, so you have various insurance costs. Maintenance and management. Maintenance is basically interiors of the units. You're running an apartment complex until they sell out. So there's maintenance, maybe you have to replace a refrigerator or you have to fix leaks, those kind of things. And you have to -- that's maintenance, but you also have to manage these. You know, you have to take care of leasing arrangements. It's typical operations for the apartment complex, and those are attributable toward coming directly off the rental income as expenses. Replacement reserves, this is a small number just for, as I said, appliances, interior replacements, carpet, tile, countertops, you know, you have accidents and such and those things would occur. And then just miscellaneous for your rental units at $75 a unit. Now, those are all based on a per rental unit basis. And as you sell the units, there's less -- less costs for those. Then you total those up and you get,

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for year one, you have $246,156 in operating expenses attributable toward renting those units.

Q: What does the next block represent?

A: That's the sales and marketing and capital costs. Those would be costs that you would incur to try and sell these units. Anything from sales costs, which would be commissions, office expenses for your sales office, unit replacement allowance, major repairs. If somebody put a hole through the wall, if you have to fix that, that's a repair cost or a unit improvement allowance. Let me spend a little time. I -- the sales commissions, which would happen at the time of sale, I have considered to be three percent. Now, when you and I go to the market and we want to buy a house, you usually read that it's a six percent commission. Because most large complexes are operated with a sales office, they have -- a minimal leasing commission is typical where they're not charging the buyer a six percent commission, they're charging maybe a small commission to that person in the office and then they're on salary. So they're on salary

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plus commission. I would assume that that would probably average out to be about two percent of the cost of the sale. And then I've included an additional one percent for those times when a buyer brings in an outside agent. You've signed on to work with an agent, you're looking at regular homes, but then you decide to go to this complex, so you're going to ask that agent to come and represent you. It's not going to cost you any more to use it as a buyer to have your agent there, but it's going to cost the seller because they're the ones that are paying the commissions. So that's why I've increased that a little bit over the two percent. Additionally, marketing costs, you're going to have brochures, ads in the paper, multiple listing, those kinds of costs. As I noted, unit improvement allowance, you're going to make minor improvement to the units. In this market, you were able, and it appears from the MLS study that I did of sales during this time period, and being a participant in the market myself, if a unit was upgraded, you would go to a complex like this and you would get a shopping list of the upgrades. You'd get

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the base model. If you wanted granite countertop, it was an additional $2,500. If you wanted ceramic tile in your bathrooms instead of linoleum, it was another upgrade. So most of the, quote, "upgrade charges" would be extra above and beyond the base price, and it would probably be a wash for the seller. He has to make those upgrades and he gets the money back. But there are some minimal upgrades that you would expect him to do, you know, replace the carpet; put in a new refrigerator because it's dented; replace the stove because the burners don't work; those kinds of things, which you just can't sell a unit like that. So you're going to make those and you're going to absorb those costs and that's why I've put in an average of $1,500. And, as noted in Steve's testimony, you usually have structural repairs, maintenance, etcetera on a unit. In this particular case, that would be covered by the homeowners association, because those are exterior repairs that I would consider, that's why you pay the homeowners association dues, they take care of the roofs and the siding and things like that.

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Q: So that's why there's a zero reflected across the board there?
A: That's correct.
Q: Okay. All right. So then you take out those total expenses, which for year one, $551,044. And what happens -- well, what's the next step -- calculation? What does that reflect down there?
A: Okay. Those are your --
Q: Cash flow of sellout, what does that mean?
A: Okay. What you have is your -- and everybody has a color copy. You have the blue which is the effective gross revenue of 7.6 million and change.
Q: Okay.
A: And then you have what is a sort of a peach total expenses at $551,000. So your net cash flow after expenses would be $7,075,308. That would be year one's hypothetical income based on the assumptions that I've made.
Q: All right.
A: Do you want me to continue?
Q: Well, my next question is, it looks like there's a discount rate/annual factor of 9.5 applied to that, is that correct?

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A: That's correct.
Q: Tell me why, what that represents. What does 9.5 percent, what is that?
A: Okay. That's the -- what is in essence the cost of doing business. That's your -- that's your cost of not getting your money today, that you're going to get it in the future. So --
Q: Where did you get that figure?
A: What we do is, we look at capitalization rates, which Steve talked about on the apartments, and he went through how you do it for an apartment, and it came out to 7.5 percent. We look at apartment capitalization rates, we look at corporate bond rates, BAA rates, we look at prime lending rates, we look at mortgage rates. And what all of those things do, you can either calculate it through a very intricate calculation based on rates and typical investment returns or you can look a the market. What we did is look at all of those factors and, in essence, if you look at this, because there is no nice cute little book that you can pull out and say 7.5 percent is the national average or 9.5 percent or 12 percent is the average for condo conversions. There's

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no -- there's no rate and because there were so few market data that we could extract a cap rate, because we just don't have any expenses and the sellout periods, it's too complicated to pull it from the market. So we look at the apartment, which is the closest cap rate. And I emphasize cap rate, that's the capitalization rate, which is based on one year. And then we put a factor on top of that which is based on the illiquidity. And you're comparing it other investments. If I'm an investor and I want to invest in your property, I'm not going to get my money back tomorrow. I'm going to get it back two years from now. Unlike the stock market, where I'm going to put my money in your company, and I don't like your company or I made $100 that week, I'm going to pull it out tomorrow and I can do that, that's liquid. But if I can't get it for two years, there's a cost. So that's above and beyond, and so it's a risk. You might not get it, you might get it, just like the stock market. But that you have to add to the cap rate and because it's over time, we add a percentage or two or three. In this case, I've looked at a two percent

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additional factor from a 7.5 percent apartment complex cap rate. I've added two percent to make 9.5 percent. The reason, in average, we look at that, in the market, we look at rates anywhere between 6.5 and 12.5 percent. The reason I didn't go much higher than that was because, though this is an illiquid investment, we have cash flow coming in on the rental side. That's an important factor because we have expenses. If you don't have that cash flow coming in for a year or a half a year or a couple of months from the sellout, at least you have it from that rental. And that provides that additional rent and that additional cash flow. So what you have in each one of these years, and I've simplified it on this line saying discount rate annual factor, I've taken that 12 percent -- or, I'm sorry, the 9.5 percent and each year it's compounded. So if you go out to year two, it's 9.5 percent for each year. So it's .83 or 83 percent of the line of cash flow is 4.3 in year two. It's a small amount of money that you would get today because you've got to pay that cost to not get it for two years. So we're trying to bring the

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value of that investment back to today and what it's worth in today's dollars and comparing it to what the apartment is worth in today's dollars as of 12/31/03 being today. So that's the way you come up with the numbers in years one, two, and three, at the bottom of that page, which is the net present value as of 12/31/03 of this hypothetical test selling them out as condominiums.

MR. FERRARA: Okay. Just before we continue, we have another copy of the report, if you would like to look at this to track, as well. I saw you looking over at Your Honor's copy. It's the same thing, Stanley.

THE COURT: Thank you, Mr. Ferrara.

Q: All right. So the chart on page 80, we then come to a net present value of income, and you take that, and let's look at page 81, it's called discounting of cash flow. It's got a chart in there that says 2003 discounted cash flow 121 units. Tell me what that, or if you can summarize what that chart represents.

A: Okay. All of this, these are the same numbers that were on the previous page. It's year one, date is 12/31/04, at the end of that year, the

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number is -- the cash flow is 7.075, discounted .9132 percentage points, comes up with six four six one four sixty-eight for that year. Each year, it's just -- the chart is on it's side so that you can now add up year one, two, and three, not year zero, that's just your base year. And those three present value cash flows, which is the far right-hand column, you add those three numbers up. You get a total cash flow net present value for those three years of $13,797,038, rounded to be 13.8.

Q: All right. So is that your financial feasability test for 121 single family residential units as if it was condominium complex, is that correct?

A: That's correct.

Q: Let's turn to page 84, and this is in Petitioner's Exhibit, the same exhibit, Petitioner's Exhibit Five. We've got it marked as Petitioner's -- by itself as Petitioner's Exhibit Eight. And let's talk about that page in your report. If you'll summarize what this page is, it's highest and best use summary and conclusions. What is your summary and conclusion of the highest and best use?

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A: Okay. Let me just state why we talked about the four tests. We had the legally, the physically, the financially. The final test is maximally productive. And what we need to do is, now that we have completed the financial feasability, we look at that result of those, in this case two tests, valued at their optimal alternative conditions, as to which one would provide the maximally productive return to the property. And that which is financially feasible, greater than the other, would be maximally productive. In this case, if you look at the lower portion of the page, the feasibility of the apartment use, my number came out to be $8.565 million. The feasibility as individual condos was $13.8 million. As a result of those two numbers, I would conclude that the highest and best use for this 121 individual residential single family condo units is as condo units, not as an apartment. It's more profitable to me as an investor, as an owner, as valuing them in the market place, it's more valuable as individual condominium units.

Q: Okay. What don't those figures represent? Are

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those figures the market value of the apartment or of the condominiums?

A: No.

Q: Okay. Is there -- does that end your analysis?

A: It ends my analysis of the highest and best use of the properties.

Q: All right.

A: Now that you've determined that, you set those numbers aside and value them as individual condominium units.

Q: And then I want you to turn to page 85 of Petitioner's Exhibit Five and tell me what that page represents.

THE COURT: I'm sorry, tell me that page again. I was writing something.

MR. FERRARA: I'm sorry, Your Honor, page 85 of Petitioner's Exhibit Five.

THE COURT: Got it. Thank you.

MR. FERRARA: Yes, ma'am.

A: This page summarizes the findings that Angela Sawadske came up with for the value of the individual condominium units that she testified this morning. And that -- I've included and referenced her reports and included the values of those individual units. As you notice, down

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at the bottom, there's a word, total, and then there's 121. There is no value adjacent to that. There is no value for the individual units as a total, it's each individual unit. Just like you don't value your neighborhood and come up with $1.4 million in the, you know, nine houses or 11 houses in your neighborhood. It's the same thing here. You don't total them up and make them all one number. They each have their own value, they each stand alone. They just happen to be attached and part of a condominium complex.

Q: All right. And that is what you did to perform this consulting report which is Petitioner's Exhibit Five, correct?

A: That's correct.

Q: All right. Did you have an opportunity -- I qualified you as an expert and I qualified you as an expert in appraisal and valuation of real estate, so I want you, in your expert opinion, to give an opinion as to what is the highest and best use of the property and the values of the 121 condominium units.

A: Okay. As of 12/31/03?

Q: Yes, sir.

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A: The highest and best use of these 121 individual condominium units would be as -- if you want me to read off each of the different values for each unit, but it would be those numbers on page 85.

Q: Okay.

A: I don't know if I need to read each --

Q: No, that's fine.

A: -- model number and their value. But it would be each of those and there would 121 values.

Q: In your --

A: In my opinion.

Q: All right. During this assignment, getting to this point in this case before the Administrative Law Court, did you have an opportunity to review an appraisal report that was submitted by the Respondent?

A: I looked at a report. I did not perform a review. The words review have a specific legal meaning in appraisal and I did not perform any specific review. I looked at his findings but that's all.

Q: What I wanted to do was go back to my opening statement where I flagged four key differences between our report and Respondent's report and

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if you can articulate for Your Honor, how does our report in some areas significantly differ from the Respondent's?

A: Okay. There are -- I want to phrase these correctly. We spoke earlier about the conditions under which we were doing this review, this appraisal assignment. We looked at the conditions as they existed in 2003 for the market, assuming that they were condos as of 12/31/03. So we looked at the market conditions in '03, we looked at the subject as if it existed in '03. From my reading of the Respondent's report it appears that he looked at the market as of 12 of 2007, 2008, after the HPR was actually enacted. In other words, it appears that the market conditions were not as of the effective date. And it's like looking at what things are doing today and comparing them to what the subject was like four or five years ago. You can't look at value as of 12/31/03 based on market conditions in '07 or '08. And as we all know, the real estate market was substantially different in 12/31/07 or '08 or '09 compared to what it was like in '03. Things were rosy, looked good, everything

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looked up and up in '03. We were coming out of a recession in the late '90s, not like today's recession, but things looked very positive. We had a good outlook on the real estate market. As of 12/31/07 or '08 or '09, if you're looking at those market conditions, we were not looking up, we were looking down. We were looking at how much has the market, the words, tanked, gone down, people losing value, underwater, upside down, those terms weren't in effect in '03. We were looking at how much appreciation are we going to get in our values. So you can't look at the market in '07 and compare it to a value in '03. And it appears that that's what the Respondent did.

Q: All right. Are there any other differences?

A: As I noted, the subject is 121 units as a part of a 200 unit complex. You can't look at one without the other. They go as a whole. The whole is 200 units. The whole is not a part. So the assumptions that you make have to be made based on that. You also need to the difference that -- another difference that maybe correlated to that is, I don't understand the Respondent's highest and best use analysis.

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It appears to completely discount that there was no way the condominiums could have been done as of '03, therefore, it's not physically or legally or financially feasible, therefore, the analysis was not completed. So it was confusing to me, I guess is the best way I would say it, as it's not really the highest and best use if you don't look at all optimal alternative uses. Then, finally, in looking at the discounted cash flow, it appears that the assumption was that all of the units were vacated at the end of year zero, that there were no rentals included. The -- so there was no benefit of that cash flow. Also, a higher cap rate was used, which appears to be based on, from the discussions in the report, on the market conditions as of 2008 or 2007 or 2009, which would have created a higher cap rate which would have created a lower value. So the assumptions that went into the discounted cash flow were based on market conditions. So some of those basic premises sort of worked their way throughout the entire report and sort of leaning toward a direction that was not necessarily what was operating as of 12/31/03.

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There are some smaller little things in --

Q: Let's stop there.

A: -- in the DCF, but I don't need to bring those up.

Q: Okay. We'll stop there.

MR. FERRARA: Your Honor, that concludes my questioning on my direct examination of Mr. James. I'm going to turn it all over to Mr. Rodgers, if he's got any questions.

MR. RODGERS: Thank you.

THE COURT: Okay. Go ahead, Mr. Rodgers.

MR. JAMES - CROSS-EXAMINATION BY MR. RODGERS:

Q: A lot of information. I reckon I will start with your valuation of these units as condominiums, page 73. Page 73 is your chart of sales comparables that you used to construct a value of 121 units?

A: No. That's what I used as a proposed sellout value for each of the units.

Q: Okay. I understand the distinction -- I think I understand the distinction you're drawing between what you do and what Angela Sawadske did. It looks a lot alike. I understand you to be saying, I do a financially -- a financial feasability test where I have to determine a

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value, but that's not an appraisal of the property under consideration; am I saying that right?

A: That's correct.

Q: Okay. As a part of your financial feasability test and looking at the highest and best use of this property, you examined these condominiums; you examined comparable condominium sales to come up a value that way, right?

A: Yeah. I don't like your use of the word value, but yes, I came up with -- it is a value. It's not market value.

Q: I understand.

A: Okay.

Q: It's not an appraised value is what you would say?

A: No, that's not fair. It's just not market value.

Q: Okay. Not market value. But the method, when you're doing that highest and best use analysis, that financial feasability test, you look at sales comparisons, comparables, just like Angela Sawadske looked at sales comparables as a part of her work?

A: Yes.

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Q: Okay. And if you look at your chart on page 73, you have a list of sales comparables, and then if I take your chart on page 80, at the top under unit sales, you start with a value. For a one bedroom unit, you start with a value of $122,959, do you see that?

A: Yes, I do.

MR. RODGERS: Your Honor, do you see that?

THE COURT: I do.

Q: All right. And you deduced, created that value; you came up with that value, based on the data in the chart on page 73, right?

A: I did not create the value. I got that value from what the market told me from the selection of the condominium sales in my chart on page 73.

Q: Right. The market, though -- you chose the data on page 73?

A: That is correct.

Q: All right. You --

A: I didn't choose -- let me rephrase that. I didn't choose the data, I chose the comparable complexes after reviewing all of the sales in Mount Pleasant of similar condominium complexes. Just like Angela looked at similar

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sales in the market during that time period for one bedroom, two bedroom, three bedroom units, I looked at the market of sales, trying to look at larger numbers of sales within complexes, particularly those in several of the instances that have been converted either during that year or recently before that year. So that was my selection process.

Q: You took those values and you took those comparables and constructed a value for The Legends, and that's what your chart, 80, at the top, one bedroom unit $122,959, you created that based on your data?

A: Well, I didn't create it. The market said that the average, down here on page 73, all comparables, 2003, there were 134 sales, they sold at $122,959, which is the same number for my price per unit on my chart on page 80.

Q: All right.

A: So I'm using the average market value from the data of recently converted or similar condominium complexes that had substantial number of sales.

Q: And if the data don't support your conclusion, then your conclusion if faulty?

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A: That's not correct.

Q: Does your data support your conclusion?

A: I don't like the way your saying data supporting a conclusion. Data doesn't do anything. I selected data on what the market told me and I extrapolated from the market what I felt, as an appraiser, showed that were the most similar condominium complexes in the Mount Pleasant area, including Mount Pleasant and Daniel Island, which is a very close market, particularly, when people were pushed out of Mount Pleasant because of the permit allocation, they went to Daniel Island. So that's why Daniel Landing was included in this list. But those are -- sure, there are other complexes in Mount Pleasant that had sales just like there are other houses that you don't consider when you're looking at buying a house. You narrow it down to what fits your -- not what your -- I mean, obviously, you want to find what fits what you want and what you need, but I'm not looking at a specific value outcome. As an appraiser, I can't do that. I'm looking at the methodology. I can't look at something with a predetermined outcome.

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Q: What I want to look at is whether the sales comparisons that you have in your report support the number that you come up with on page 80, because y'all, when you went through that analysis, y'all didn't talk about the starting number, right? You've got to have a starting number for a one bedroom, a two bedroom and a three bedroom. That's the foundation for your report. If you don't have those numbers to start with, you can't discount it out over time, that's where we have to start.

A: Okay.

Q: We have to start with that number.

A: I agree. I agree.

Q: I didn't hear in that, however long that discussion was, I didn't hear any discussion of how you start, how you got the number to begin with before you started moving it out over time.

A: Okay.

Q: All right. And if we start with a bad number, isn't the result going to be bad?

A: Qualify that with an if. But you've done very well at explaining how I did come up with those

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numbers and I've explained it, now, so I think we've covered that.

Q: Okay. Well, let's look at page 73.

A: Okay.

Q: Those are your comparables. That first column, one bedroom units, those would be the comparables that you used or the market told you to use for constructing a value of a one bedroom unit at The Legends, which is $122,959. You say the data, the market data from page 73 --

A: Right.

Q: -- led you to that conclusion, right?

A: That's correct.

Q: Okay. And if we go down in that one bedroom column under price per square foot, what we have is there is a single sale from Ellington Woods. Ellington Woods would be a property close to The Legends?

A: In proximity, that's correct.

Q: Yes. Within two or three miles, the same zip code?

A: I'm not sure if it has the same zip code or not.

Q: Okay. I'll tell you it does.

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A: Okay.
Q: As we go down your one bedroom column, there are no other one bedroom comparables until you get to Daniel Island.
A: That's correct.
Q: Do you see that? You've got 100 and -- looks like 133 sales from Daniel Island and the per square foot price there is $165.
A: That's correct.
Q: In your opinion, the property you used from Daniel Island is a good comparable for this complex out in North Mount Pleasant?
A: Yes, it is.
Q: Okay. Would you agree that the per square foot price between your comparable and Ellington Woods, which is two miles away, is vastly different from the per square foot price on Daniel Island that you've got listed in here as $165?
A: It is different.
Q: All right. And the value that you used, you chose a value very close to the $165 to come up with your value of $122,959, you didn't choose a value down at $91?
A: That's correct.

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Q: All right. I'll do that analysis for you. That's $122,959 divided by the number of square feet in that unit, which is 753, is $163.29 as a per square foot price and that's the number you used. And you base that on the sales on Daniel Island, right? If you look at the --
A: Mostly --
Q: -- bottom --
A: Mostly on Daniel Island, yes, that's correct.
Q: Okay. If you look at the bottom of that column, I see 2003 per square foot price, $163.44 and I assume you calculated that value by taking one sale at $91 a square foot plus 133 sales at $165 a square foot, add that up, divide it by 134, and you come up with your square foot price?
A: That's correct.
Q: All right. So, if I used your same data and said that your sales comparable from Daniel Island, from a different island, from a different zip code, is not a fair comparable, and we said why don't we use your price that you have in your chart from the same zip code, from two miles away, the $91, we're going to come up with a vastly different price, aren't

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we?
A: But it would not be a reasonable price.
Q: Because you say it's fairer to pull a comparable from Daniel Island in, too?
A: You have to understand that you don't look at a, one, particular sale does not make the market; and two, you look at other factors besides location. You look at condition. Interestingly enough, when I moved here seven months ago, I looked at renting a property in Ellington Woods and I rented a property in Daniel Landing. They were the only one bedroom properties available at this time among these and several other condominium markets. What does that tell you? One of two things, either there wasn't a market for one bedroom condominiums, or it was a hell of a market for somebody to come in and have one bedroom condos available, because there weren't any on the market. And it was probably a combination of both. But because there weren't a lot and because they did sell in Daniel Landing, and Ellington Woods, I think was a, if you look at it, I think if you look at the size of the one bedroom, I think somebody took the walls out

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and made a one bedroom out of a two or a three because it's a huge one bedroom unit. But if you look at the fact that there were minimal one bedrooms available, you could sell them for a huge number because Mount Pleasant wasn't building them. So you have an artificial market. So yes, those numbers are huge and it is Daniel Landing because there were no alternatives at that time in Mount Pleasant and that's why I had to go to Daniel Island to find some of those. And because Mount Pleasant is considered an upscale area, Daniel Landing was also an upscale area, these were on the lower end of the units available on Daniel Island, and so they are very comparable.
Q: Let's do this. You're telling me, for a one bedroom unit, the market forced you to go to Daniel Island to find a comparable because there weren't any in Mount Pleasant, am I hearing that right?
A: Not enough. I can't say there were none.
Q: You only found one?
A: Okay. But you -- you found this morning that Angela had trouble finding one bedroom condos, as well.

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Q: Let's look at your two bedroom condos.
A: Okay.
Q: Page 73. In that column for 2003 two bedroom sales, you found one, two, three, four, five. You got comparables from five different locations in Mount Pleasant, plus the last one is Daniel Island. So why did you go to Daniel Island for that one?
A: Because I didn't separate out just one bedrooms from this complex, two bedrooms from this complex. I looked at sales within the overall complex, because sometimes, if somebody can't get a one bedroom in that complex, they might have bought a two bedroom because they liked that complex. And I would think they would do the same thing in The Legends. If there's not a two bedroom available and there's a three bedroom available, they might buy it. So they're not necessarily -- so I wanted to look at all factors for all that. I didn't want to just pick and choose from a few in this complex and a few in that complex just because it made it work for me. I looked across the board. And also, if I feel strongly about Daniel Island being an alternative for shoppers,

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buyers in the Mount Pleasant market, that's true for two bedroom shoppers as well as three bedroom shoppers. It's not just one bedroom people that went to Daniel Island.
Q: And if you look at, in column number two, the two bedroom.
MR. RODGERS: I know it's a little tedious looking at those numbers, Your Honor.
Q: But the two bedroom column, if you look at the per square foot prices, what you will see in your comparables is a range from $95 to $166 and, lo and behold, the $166 is the Daniel Island comparable. Is that per square foot price not telling us that that's a different market? Let's look at the others. Ninety-five --
A: I'm sorry, is that a question for me or was that just a statement on your part?
Q: Yes, isn't the market telling us that that's a different -- isn't the price we see there telling us that's a different market?
A: Not necessarily.
Q: Okay.
A: It's just a different product within the market.

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Q: Let's look at the per square foot prices in the two bedroom column from the top, $109, $92, $109, $114, $95, and then Daniel Island is $166. And you say it's good to use that one?
A: Yes, I did.
Q: Okay. If we did it a different way, if we took out your Daniel Island comparables and didn't use those to compute what you say is a valuation of the one, two and three bedroom units, we're not going to go through each one of those, but aren't we going to come out with a swing of millions of dollars?
A: If we follow what you consider a methodology, which I don't consider an effective methodology by picking and choosing which complexes or condominium sales I want to use. I can't discount and say, ah, that one's not good to use here and this one's not good to use here. I have to look at what the market is telling me.
Q: I'm not picking and choosing. I'm just saying let's use the ones in Mount Pleasant.
A: And that's fine, but that's not the definition of the market. That's your definition. You can define it as you choose, but, as far as I

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know, I'm the appraiser and I, with my license, have to follow USPAP, which is the Uniform Standards of Professional Appraisal Practice. It's the guidelines that we have to follow when I am an appraiser. And as such, I can't pick and choose. I look at the market and I look at what the market tells me and I extract from that market. And I made a determination that, in my opinion, there were no market sales that reflected -- I mean, I can go through and we can -- we could pick and choose each one of these complexes and go through a complex analysis of which is better or worse or close or farther or zip code or not zip code. The idea is part of, as an assessor, we don't look at, and this is partially -- this is sort of between mass appraising and individual. We're looking at determining a market value from looking at numerous sales, not just single one, two or three units. So we can't just throw out a sale because we don't like it. What if Daniel Island had a value of $60 a square foot instead of $160 a square foot?
Q: Our position is --
A: You wouldn't even be having that argument.

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You'd say, oh, you should use --
Q: No, our position would still be it's not the same comp. It's not a qualified --
A: But you'd want me to keep it in there.
Q: No, sir. I want you to use the ones that are supposed to be used.
A: Well, we have a difference of opinion and I feel mine is based on my license; yours is --
Q: I understand your position. Let me go back. You said the purpose of your report is not an individual appraisal of the properties, but a determination of the highest and best use. And if I look at the cover of your report, under intended use of appraisal, it says, determine the highest and best use of the subject as of 12/31/03, correct?
A: Yes.
Q: All right. So your primary focus, while it seems like you're doing some of the same things as Angela Sawadske, your primary focus is the highest and best use determination, not the individual appraisal issue?
A: Appraisals take many different forms. My goal was not to determine the market value of the individual units, but appraisal practice

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includes consulting appraisals, which is exactly why this is called an appraisal consulting report, and that's the difference, that I have to use my knowledge as an appraiser and my license limits me as to how I follow, still, I mean, there's -- USPAP still guides me in preparing this as an appraisal assignment, but it's not to determine market value.
Q: Your focus was to determine the highest and best use of these 121 units as of 12/31/03 --
A: That's correct.
Q: -- wasn't that the purpose of your report?
A: That's correct.
Q: And you began your highest and best use analysis -- this is on page 14 of your report -- by looking at four factors. Those are the four factors that guided you in your highest and best use analysis, correct?
A: That's correct.
Q: First factor, is the use legally permissible; second factor, is it physically possible. And when you get to -- after those, two you might have more than one use, correct?
A: That's correct.
Q: That made it -- that leapt the first two

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hurdles?
A: That's correct.
Q: Then you look at financially feasible and that's what we have spent a lot of time talking about and you spent a lot of time talking about it with Mr. Ferrara. And a lot of your analysis was right there in the financial feasability section of your report -- I mean of the test. And then, if you end up with more than one use that's financially feasible, then you go to maximally productive. That's what you did?
A: That's correct.
Q: Okay. So the first step is, is a particular use legally permissible. I'm quoting this value -- this is a quote from your report. "Legally permissible uses are considered. These result from such limitations as those imposed by private deed restrictions, zoning, building codes and environmental regulations." That's in your report?
A: Can you tell me what page you quoted that from, please?
Q: Page 14. What I did, on the list of factors, this is simply what is written under that

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factor on page 14. Do you see it?
A: Yes. Okay.
Q: All right. So the test for a particular use is it has to be legally permissible to be considered the highest and best use, correct?
A: That's correct.
Q: And part of what you look at are limitations imposed by private deed restrictions, correct?
A: That's correct.
Q: Zoning, building codes. So, if we had a field being used for soybeans, it might be more valuable as a manufacturing plant, but if the zoning says it's agricultural, you can't value it as a manufacturing plant, right?
A: I'll answer that this way. You can't value it as a manufacturing plant unless the assignment asks you to hypothetically value it as if that plant were there, given those circumstances. And that's the premise under which I did this highest and best use analysis. It was stated and considered a hypothetical analysis as if they were there. Now, in your analogy of the soybean field versus the manufacturing plant, you have a field with no improvements except an agricultural crop versus an improved building,

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I would assume, if it's a manufacturing plant. Those are kind of one's as vacant sort of and one is improved. So I couldn't really compare apples and oranges or soybeans and a manufacturing plants. But in the sense that we have to look at the hypothetical circumstances that we're asked to consider, remember that the assignment was to look at the subject condition, what condition the subject was in legally, physically, when the horizontal property regime conversion took place, and go backwards to 12/31/03 in the market conditions. And the subject at that time was a legal property regime, because, in the hypothetical circumstance, the condominiums didn't exist in 12/31/03 --

Q: And they --

A: They did exist, in this hypothetical situation in which we were faced, by the statute that says when the horizontal property regime is enacted by the owner, it's changed, it's converted from an apartment to condominiums, that circumstance that is now placed on the subject, we now have to value that as if it was in '03. It's obviously a hypothetical, because

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in '03 it didn't exist as condominiums, it existed as an apartment complex, but we have to look at it as if it did.

Q: To be considered for your highest and best use, however, you considered apartment use and condominiums. To be considered -- to even ever be considered as financially feasible, before you ever get to that step, for condominium use, it has to be legally permissible. And if it's not legally permissible, you don't ever get to that step, do you?

A: That's correct.

Q: Okay.

A: However, it was legally permissible --

Q: That's what we're --

A: -- as per the horizontal --

Q: I want to ask you some questions about that.

A: -- property regime.

Q: I want to ask you some questions about that.

A: Okay.

Q: Was it legally permissible as of 12/31/03 for these units to be condominiums? Now, if it wasn't, would you agree with me that a condominium use is not valid?

A: If it was not a hypothetical case, it would be

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thrown out. But in this particular case, based on the hypothetical condition, there were no conditions under which the subject was operating that it was illegal. So it would not have been thrown out.

Q: All right. Do you know the history of this property?

A: I do.

Q: All right. The property was purchased in the late 1990s?

A: That's correct, as far as I know.

Q: They got a HUD loan to construct the buildings, the apartment buildings, and they constructed the apartment buildings, do you know that?

A: I've read some of the information on this, I know that.

Q: All right. Have you ever seen the HUD loan?

A: I've read parts of it. I have not read it cover to cover.

Q: Okay. I'm going to hand you Respondent's Exhibit Seven, which I'll represent to you is the HUD loan that was taken out to fund the construction of these units. Attached to the loan document is the mortgage. Do you recognize the mortgage would have been recorded

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at the Charleston County RMC Office, correct?

A: Okay.

Q: On the first page of this mortgage note, there's a stamp, received 2004, August 3, Charleston County Assessor's Office, do you see that?

A: August 3, 2004, yes, I see that.

Q: Have you ever seen this document before?

A: I have not personally, no.

Q: Let's look at page three, Exhibit A. Your Honor, the third page of the note at the top, it says rider to mortgage note. The second paragraph begins, "The indebtedness evidenced by this note may not in any event be prepaid in whole or in part prior to March 1, 2006." This loan could not be paid before March 1, 2006. The mortgage that was on the property could not be gotten rid of. Doesn't that mean this property could not have been converted to condominiums as of 12/31/03, so it could not be a potential candidate for the highest and best use of the property?

A: Is there anywhere in this document that says that that's a deed restriction?

Q: The note is incorporated in the mortgage. The

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mortgage is a matter of public record in Charleston County. It was received by y'all's office, because you've got the stamp on the very front of it.

A: I mean, I'm not the lawyer asking the questions. But I don't think you answered my question. It's not a deed restriction.

Q: You performed a highest and best use analysis. One of the factors is --

A: A hypothetical, yes. I completed a hypothetical and the hypothetical was, as I stated, I can't be more clear, as of 12 -- as of the horizontal property regime date, which was in April of 2006, we looked at the conditions of the subject as if they existed in '03. As of April of 2006, there was no restriction from the mortgage that limited the ability to subdivide. This doesn't say that he can't create a horizontal property regime, it doesn't --

Q: How is he going to sell it?

A: Well, apparently, he's not selling them now, and he has a property regime, so how does that preclude --

Q: 12/31/03 he creates a condominium regime, he

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tries to sell them, there's a mortgage on the property, nobody can buy it. Who's going to buy a unit that's got a mortgage that can't be released? A potential buyer comes in and says, here's $200,000, I'll take a unit, and it comes with a mortgage on it? Nobody would buy that unit, would they? What I'm asking you about is your analysis.

A: And I will say it again. Your Honor, I hate to be repetitive. We looked at the conditions as of they existed at the value of the horizontal property regime, as if those conditions of the subject which was after the expiration of the pre-penalment [sic] payment clause that says they couldn't prepay it. So now, it's clear to be subdivided and sold and prepaid as if that condition existed in 2003. I can't --

Q: Are we determining --

A: I can't be more clear.

Q: -- the highest --

A: That's the state of how we look at --

THE COURT: Mr. Rodgers, let him finish his sentence.

A: That's how we have to assess, that we're assessing as of April of '06, when the horizontal property regime was enacted. I

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don't know what other word I should use for that, but that's the best word I can use. There were 200 units. We were asked to value that as 200 units as of 12/31/03. What is the highest and best use as of 12/31/03, given the circumstances that it's now 200 units. We're looking at 121 of them, still condominium units under the same ownership. So that condition hasn't changed. I can't -- I can't go any further than that. I mean, I guess we just have to agree that you feel differently than I do, but that's the factors that the assessor's office works under. And we looked at the market conditions, not the subject conditions as of 12/31/03.

THE COURT: Okay. Go ahead, Mr. Rodgers.

Q: So, in your highest and best use analysis, in your attempt to determine what that was as of 12/31/03, is one of the factors you analyzed whether a particular use was legally permissible?

A: Yes, it was.

Q: As a part of your analysis of the legally permissible element, did you look at this note to determine how that impacted your legally

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permissible element analysis?

A: I was -- yes, in the sense that I was familiar with the fact that, as of April of '06, there was no longer a clause that was in effect that said it could not be prepaid. So I was -- the subject was now obviously converted to condominiums; therefore, we now look at 12/31/03. Can I give you an example that may help understanding of this? Let's a say in 12/31/03 you have a vacant lot. In 2006, you build a house. You now value that house as of 12/31/03. What was it worth on 12/31/03? That is what we're doing here. Now, there may have been a restriction on that property, there may have been a deed restriction, there may have been a CAFR restriction, there may have been a deed restriction that was full until an estate heir died that said you will not build on my property or subdivide it until I die and then that person dies in '05; in '06, somebody buys it and builds a house on it. And we have to value it based on 12/31/03. But as of 12/31/03, it had a deed restriction. But as of the time that the event occurred, it no longer had that deed restriction on it. So now we

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have to go back, just like every other property in Charleston County, and look at it as of 12/31/03.

Q: Can we agree that as of 12/31/03, this property could not have been used as condominiums? We can see that based on this note in this particular case. It could not have been used as condominiums as of 12/31/03.

A: That's not relevant, okay. And the reason that it's not relevant is what I just said.

Q: All right.

A: That's not the exercise that we have in front of us. And it's exactly what I just said if you look at the analysis of the house.

Q: How were the 121 units being used as of 12/31/03?

A: From my knowledge, it was single family residential units.

Q: 12/31/03 now.

A: Single family residential units.

Q: All right.

A: They were -- I'm not -- my knowledge is that they were individual units that was part of an apartment complex, but they were individual units. I mean, they were single family units.

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Just like an apartment, when you rent an apartment, it's a single family unit, it's just not owned as a single family unit, but they were, you know, each unit was, I assume, for a single family to rent.

Q: Were they being used as apartments?

A: To my knowledge, yes.

Q: That's what they were, right, is a 200 unit apartment complex?

A: Right.

Q: That ain't a hard question. As of 12/31/03 these were apartments, right?

A: That's correct.

Q: That use was legally permissible?

A: Yes, it was.

Q: Physically possible?

A: Yes.

Q: Financially feasible?

A: Correct.

Q: All right. And when you looked at the financially feasible element of your highest and best use analysis, if you were trying to decide, are were going to do it as apartments, are we going to do it as condos, the financial feasibility test you applied to both. So,

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right now, I'm focusing on, when you apply that to these 121 units as an apartment, you had a head start because Steve Everman had already done a lot of that analysis. He had already done a report, correct?

A: That's correct.

Q: And his report, in fact, focuses on the very same date we're focusing on in this case, right, 12/31/03?

A: That's correct.

Q: And on page 63 of your report, valuation as an apartment complex, you began by noting that, you began by saying Steve Everman's already done the report, so we're going to incorporate a lot of his information. At the very bottom of the page, I'm going to read it. "Whereas that report valued the entire 200 unit complex, I have calculated the pro rata share using the same methodology in this report to value the subject 121 units within the complex." Do you see that?

A: Yes, I do.

Q: All right. So did you take his valuation of 200 units and reduce it pro rata for the 121 units?

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A: Not exactly. I reconstructed the operating and income statement based on the pro rata share of the apartments.

Q: All right.

A: So I didn't just take his number and divide by --

Q: I've got you.

A: -- point six something.

Q: You were here earlier, when you heard me asking him those questions and you heard him protest that that's not the right way to do it?

A: That's correct.

Q: Okay. You did it the right -- if I'm hearing what he's saying, you did it the right way, right? You reduced it down using the actual units and examining the actual 121 units rather than just taking a pro rata reduction?

A: That's correct.

Q: Okay. Now, on the next page, top of page 64, you bring out a good report -- a good point. And that is, if we take Mr. Everman's analysis of 200 units, we have to reduce it down in a pro rata way, maybe not the way I did it, you're saying, the way you did it, but you did that pro rata reduction. But then to get a

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value for the 121 units, we also have to reduce that number by 11.94 percent, correct?
A: That's correct.
Q: And why is that?
A: That's because both parties accepted the Board of Assessment Appeals decision that provided a value as apartment complexes and that value was approximately 11.94 percent lower than Steve Everman's value.
Q: That's because that valuation, I'm handing you Exhibit Four.
THE COURT: Thank you.
Q: The valuation of these units as an apartment complex as of 12/31/03, all 200 had already been done, hadn't it?
A: I'm sorry, say that again.
Q: The valuation of the 200 units as of 12/31/03 had been done by Mr. Everman and presented to the Charleston Board of Assessment Appeals and they had rendered a decision, Exhibit whatever I just handed you, that document, and the Board of Assessment Appeals rendered a decision, correct?
A: That's correct.
Q: And they didn't accept Mr. Everman's analysis

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of the value of the 200 units as an apartment, did they? No. Isn't that the answer?
A: They revised, whether they accepted or not. I don't like to use the word accepted. They chose to recommend a value that was different.
Q: All right.
A: Just my choice of words, I'm sorry.
Q: Okay. They came up with a number -- he presented a number of $16,644,000. Their determination -- it's not a recommendation, it's a determination -- their determination was $14,656,000, do you see that?
A: Yes, I do.
Q: All right. Neither party appealed that, so that is the value of the property as of that date valued as an apartment complex for 200 units, isn't it?
A: As of 12/31/03, that's correct.
Q: And your report factors that in, correct?
A: Correct.
Q: You take Mr. Everman's report, you reduce it down for 121 units pro rata in your own pro rata way, and then you further reduce it by 11.94 percent to take into consideration the binding ruling of the Board of Assessment

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Appeals to come up with the value of the 121 units as an apartment complex as of 12/31/03, isn't that what you did?
A: That's correct.
Q: And the value you come up with of these 121 units is on page 65, $8,565,000, isn't that right?
A: That's correct.
Q: The analysis, the number crunching that led you to that conclusion, is on page 69, where you walk through all those numbers, you reconstruct the pro rata 121 units, and you come up with a final valuation and reduce it by 11.94 percent, correct?
A: That's correct.
Q: So your analysis on page 69 meets Mr. Everman's objection to my just reducing it -- my just prorating it down from 200 units to 121. You actually did the analysis right there that he's talking about needed to be done. It's done right there on page 69.
A: That's correct, but he did not do that. I did that.
Q: Okay. You did it right there?
A: Right, that's correct.

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Q: So is it your expert opinion today that the 121 units at issue had a value as of 12/31/03 of $8,565,000 as shown on page 69 of your report?
A: It had that value as apartments as of 12/31/03. That is not the value that the 121 units should have today or as of this appeal because conditions have changed. When Steve did the report, which was prior to the horizontal property regime action, it was an apartment. And this is what those 121 units would have been worth had they been separated at that time. However, the conditions are different for the subject now, so it's not the market value as of 12/31/03 for tax and for loan purposes.
Q: Was Mr. Everman trying to determine the fair market value of the 200 units as of 12/31/03?
A: Is he?
Q: Was -- that was his goal, wasn't it?
A: As of the date of his report, which was as of -- I think his report is in '05, when he actually -- or '04, when he actually completed the report. Yes.
Q: Yeah.
A: His goal was to determine the market value as

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of that date effective, 12/31/03 is when he did the report, I think. I don't remember what the date of his report was. It was April 26th of '04 is when he completed the report, but it was effective 12/31/03, so it was prior to the horizontal property regime.

Q: The assessor's current position is that the value of these units, the appraised value, should be based on Angela Sawadske's individual appraisal reports.

A: Yes, that's correct.

Q: And if we take those individual numbers, the total of that amount is $16,454,000?

A: Okay. I haven't added them up.

Q: I'll represent to you that that's the number.

A: I can't verify that. I'm not going to -- to that number.

Q: Okay. And then that valuation would be based on the hypothetical use of those units as condominiums as of 12/31/03?

A: That's the value that we would consider them based on -- well, it's not the -- it's the wrong use of the word hypothetical in this case. That is the value of the --

Q: Is it actually being used that way?

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A: That is the value that we would put on for ad valorem tax purposes on the property. That would be the market value as if they are condos in '03.

Q: Well, I use the word hypothetical because you would agree with me they weren't actually being used as condos in 2003, were they?

A: No, that's correct. We've had this discussion for a couple of minutes, now.

Q: Are you aware of any other property in Charleston County that was being used as an apartment complex that was valued as if it were a condominium complex?

A: I'm not sure what you're asking me.

Q: Well, in this case, aren't we, as of 2003, taking an apartment complex, the actual use, and valuing it under a highest and best use analysis? You're saying, okay, you're an apartment complex, we'll value you as an apartment complex, but that's not the best use; the best use would be as a condominium complex, which is a higher value, so that's how we're going to value you. What I'm asking you is, was there any other property in Charleston County that was an apartment complex, that was

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ran as an apartment complex, where the assessor's office went and did this highest and use analysis, ran it both ways and said, we know you run as an apartment complex, it'd be more profitable to be a condo complex, so that's how we're going to assess you?

A: I can't answer that question. I don't have knowledge of specific. I will tell you that any property that was run as an apartment complex in '03 that converted to condominiums after that date is now valued as condominium units under 95, 96, 98, I don't know the percentage. Almost all of them are valued as individual units today.

Q: All right. I'm glad you qualified that, because you know there are condominium complexes in Charleston County that are valued as apartment complexes. You know that, don't you?

A: No, I don't. I think you're using the word condominium and I'm not sure that they are condominium complexes.

Q: Sabal Palms?

A: I can't speak to that. I will leave that to another witness if that's an issue, but I

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believe those are townhouses. I don't believe that they are condominiums and I'm not sure they are actually valued -- I will stop there. I don't know the particulars of that property and I don't want to speak to that.

Q: Okay. I'm trying to test your knowledge. And you're telling me you don't know if there are condominium complexes in Charleston County that are valued by the assessor's office as if they were apartments. You're telling me you don't know the answer to that question?

A: No, I'd have to plead, I can't know everything about how things are valued. There are 170,000 odd properties in Charleston County. I can't know all about every property in Charleston County, and I believe that we may have another witness who can speak to that.

Q: Okay.

A: So I would defer to someone who is more knowledgeable.

Q: I'll look forward to hearing from them. You did two reports. You did a report as of 12/31/03 and the same full-blown analysis as of 12/31/07, correct?

A: Similar report.

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Q: Very similar. But as I understand y'all's position today, we can really chunk the 12/31/07 report because '03 is what we're relying on, is that the skinny on that? Do we need to look at the '07 report, anything relevant to the case in there?
A: Not to my knowledge.
Q: I think that's all I have. Thank you.
THE COURT: Do you have anything on re-direct?
MR. FERRARA: Your Honor, we don't have any questions on re-direct for this witness.
THE COURT: Okay. Thank you. Thank you, Mr. James. You may step down.
MR. JAMES: Thank you.
THE COURT: Who do you intend to call as your next witness?
MR. JAMES: Your Honor, do you keep these?
MR. RODGERS: No, the court reporter.
MR. JAMES: You take these?
MR. FERRARA: We rest our case, but depending on what's brought up in Mr. Rodgers' case, we would like to reserve the assessor and/or any of these other witnesses as a rebuttal witness.
THE COURT: Okay. It's 4:30, now, and I'm becoming more and more doubtful that we're going to

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complete this this afternoon, but let's take a ten minute break before you --
MR. RODGERS: Your Honor, housekeeping, if I could address that issue?
THE COURT: Sure.
MR. RODGERS: My plan is, I've got a motion for directed verdict that I want to make to you, right now. So I'd like to argue that in front of you and that might take 15 or 30 minutes. I am prepared, then, to start with the first witness, but if you want to stop then, that's going to be probably around 5:00, anyway.
THE COURT: Okay.
MR. RODGERS: You might want to do it that way. And they've rested their case. I'll start fresh tomorrow.
THE COURT: Okay. But right now, we're going to take that ten minute break.
MR. RODGERS: That's fine.
MR. FERRARA: Your Honor, I would also like to readdress some documents that we'd like to move into evidence.
THE COURT: Sure.
MR. FERRARA: We failed to do so.
THE COURT: Let's do that, then, before we break so

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that we can address that.
MR. FERRARA: I'd like to go ahead and move to admit Petitioner's Exhibit Number Five and the -- Petitioner's Exhibit Five and --
THE COURT: And the --
MR. FERRARA: Petitioner's Exhibit Six, Seven, Seven A and Seven B.
THE COURT: Go through that again. I'm sorry. Petitioner's Number Five.
MR. FERRARA: Petitioner's Number Five; Petitioner's Exhibit Six, Seven, Seven A and Seven B.
THE COURT: Okay.
MR. FERRARA: And Petitioner's Exhibit Eight.
THE COURT: Mr. Rodgers, have you reviewed all of those exhibits?
MR. RODGERS: Yes. Your Honor, at this time, I'd like to do the same thing, if you'd allow me.
THE COURT: Sure. Mr. Rodgers, you've a couple of these other exhibits here that haven't been entered yet.
MR. RODGERS: So Respondent's Exhibit Four and Respondent's Seven. And finally, Your Honor, I think we're going to stipulate to this, Respondent's Exhibit One is simply the decision from below the Board of Assessment Appeals,

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we've been talking about that. I don't know that I actually asked the witness, but I'd ask that that be moved into evidence, as well.
THE COURT: The Board of Assessment Appeals?
MR. FERRARA: No objection, Your Honor.
THE COURT: Okay. Is that it?
MR. RODGERS: I believe it is.
THE COURT: Okay. There being no objection, all of the exhibits are admitted.
(Petitioner's Exhibit Numbers Five, Six, Seven, Seven A, Seven B, and Eight were admitted into evidence.)
(Respondent's Exhibit Numbers One, Four and Seven were admitted into evidence.)
THE COURT: Thank you. That's it. Okay. See you back in let's just say about ten minutes, so that would be a quarter to five.
(A break was taken from 4:32 p.m. until 4:48 p.m.)
THE COURT: The hearing is called to order. Mr. Rodgers, you're prepared to rest your case?
MR. FERRARA: Well, Your Honor, there seems to be a little bit of confusion about some documents that have not been admitted into evidence.
THE COURT: Okay.
MR. FERRARA: We've admitted Petitioner's Exhibits One through Eight, but we can't find

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Petitioner's Exhibit Nine, which is --
MR. MITCHELL: It should be another green tab. The last page of that green tab should have a page number of 85.
THE COURT: A green tab?
MR. MITCHELL: Yes, ma'am. It was a standalone exhibit pulled out of the report by Mr. Gary James.
THE COURT: Here it is.
MR. FERRARA: We'd like to move that into evidence, Your Honor.
THE COURT: Mr. Rodgers, what about Exhibit Eight? I've got an Eight in here, too.
MR. FERRARA: That has been moved to be admitted, as I understand.
THE COURT: Okay.
MR. FERRARA: So that concludes all of Petitioner's Exhibits One through Nine and includes Seven, Seven A and B.
THE COURT: Okay. Very good.
MR. FERRARA: Thank you, Your Honor.
THE COURT: They're all admitted.
(Petitioner's Exhibit Number Nine was admitted into evidence.)
THE COURT: Mr. Rodgers, we're ready to hear from

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you.
MOTION FOR DIRECTED VERDICT - BY MR. RODGERS:
MR. RODGERS: Thank you, Your Honor. I'd like to move for a directed verdict, a verdict as a matter of law, on the issue of the highest and best use of these 121 units as of 12/31/03. It's not the ultimate issue in the case. The ultimate issue in the case is what was the value of those units on 12/31/03. But the step, what we've got to jump through before we get to that question is, what was the highest and best use. There were two options. They have put this into evidence in their reports. They have testified as to the highest and best use analysis takes into consideration four factors. The very first factor is, was the use legally permissible. It's not a blending of these factors. It is, you don't pass go if you don't get past number one. You've got to jump that hurdle. If you don't, that use is out. So you test a particular use as is it legally permissible. If yes, we go forward; if no, we stop. The definition of legally permissible as quoted in their reports, these result from such limitations as those imposed by private deed

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restrictions, zoning, building codes, and environmental regulations. In this case, this property could not be legally used as condominiums as of 12/31/03. That is because Respondent's Exhibit Seven, I know their office has seen it because it's stamped on the cover, received by the Charleston County Assessor's Office back in 2004. It is -- the note is incorporated in the mortgage, which incorporates its terms by reference. Obviously, the mortgage is recorded at the Charleston County RMC's office. This is a legal document that places a limitation, effectively, on how this property could have been used. That limitation is on page three, which says this HUD note, it's a HUD loan guaranteed by the Federal Government, says this loan could not be prepaid before March of 2006. What that means is, as of December 31, 2003, this property was going to have a mortgage on it and if they attempted to change the use from apartment complex, which is what this note funded, how they got this money as guaranteed by the Federal Government, said you're building an apartment complex, you can't pay off this

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note before 2006. This term and this note blocked them from turning these into condominiums in 2003. It was not legally possible. If we do not get past -- I said possible -- permissible. If we do not get past factor number one, is it legally permissible, then we never get to step number two, we never get to step number three, which is comparing the financial feasibility of the different uses. So the two uses that they say we end up doing our financial analysis on, we value it as an apartment complex and we value it as a condominium complex. They say the highest and best use, because they come out with a higher number, is as a condominium complex; therefore, we're going to value the units, we're actually going to have an appraisal done by Ms. Sawadske of these units as condominiums. We never get up here to appraising them as condos because we never get past back here which says these units could only have been used as of the date of valuation, 12/31/03. The only legally permissible use was as apartments. They were apartments in 12/31/03. They should be valued as apartments as of 12/31/03. That was their

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highest and best use as of 12/31/03 because the alternative that they proposed is not a candidate. It's not legally permissible. I move for a directed verdict on the issue of highest and best use as of 12/31/03.

MR. DAWSON: Thank you, Your Honor. I'd love to respond to that, if you'd allow me to.

THE COURT: Sure.

MR. DAWSON: I'll admit I've been very quiet today, so I'm ready to get going.

THE COURT: Well, that's why I was looking. I was seeing which one would stand.

MR. DAWSON: First of all, I want to speak to the legal test because I think it's important here on this motion. And in it's in any evidence standard and so I'm pleased to hear that we're not talking about the evidence that's been put on the record with regard to this issue because there has been evidence. You heard testimony from the witness stand that in a light most favorable to the non-moving party, your judgment at this stage in this case is not to assess weight to that evidence or credibility. It's to determine the existence of it. And so we believe there is an existence. We do

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believe, based on the report introduced by Mr. James, he speaks to in his analysis of highest and best use that he believed that it was legally permissible. And so there is evidence on the record, and I won't go through his entire testimony on that because I really want to jump to the legal principal that's being raised here because that's not been addressed and it would not have been proper for a witness to try to argue to the Court the law. I want to talk about the law for a second. The law is found in two places. The first place is 12-43-215 and that's titled, Owner Occupied Residential Real Property, Highest and Best Use, Appeals of Assessed Value. And the operative provision in the statute that governs how the Court is supposed to determine this date of value, 12/31/03, is found in this key language. And I'm going to read it to you, and it's a long sentence, but I'll focus on the part that I think is important. It says, "When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments if warranted."

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Here's the key provision that had been overshadowed or just kind of glossed over in this case: "Based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted." The reason why I think that's important is this case has been framed as what could the property owner do on 12/31/03. That's not what this case is about. The assessor's charge is not to determine what the property owner can do. The assessor's charge is at that event, at that change of condition, what could similarly situated properties have done for purposes of determining value at that time. The Respondents in this case want you to believe that the law in South Carolina says you must assume what he could have done on 12/31/03. That's not what the statute says. The statute says to look at what other properties were valued at that time as they existed on 12/31/03. So, when we get to this fiction of the mortgage, we talked about the mortgage as if, one, the mortgage prevents the taxpayer from converting to condos. Not one time in argumental testimony have you heard any

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language in this mortgage that says thou shalt not convert to condos. What it says is, you can't prepay the mortgage. So let's think about what the taxpayer is doing today. He has converted to condos and he has kept ownership of 121 units. He still has the mortgage on it. There's no prohibition to his ability to convert the use. The prohibition is whether the bank will release the mortgage on the particular property. Once again, no testimony whether they even asked the lender, would you allow me to not only, one, convert to condos; but secondly, if I choose to sell one, will you allow me to release the mortgage on that individual piece of property. All this is is a prepayment provision. You can't pay ahead of time. It's not you can't sell the property in its entirety or in part, nor does it say you can never convert the use. So to make the argument solely based on mortgage, that is a prepayment provision, as the basis for saying, under the highest and best use test, you can't get past prong number one because you can't get past legally permissible doesn't square with the language in the mortgage or the highest and

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best use test or South Carolina law which speaks to not what you could have done on the date of value but as they, they being other property, existed, not as your property existed. Mr. James, I thought, gave the best analogy when he was testifying. He said, you have a vacant piece of land. Charleston County happens to have done reassessment based on a date of value of 12/31/03. But you didn't have a house on that property. Fast forward three years, you build a house. So is the assessor supposed to value as it existed, the property? Well, gee, then that would mean it would be no change because there wasn't anything there. No, what the assessor's charge is, per this statute, is to look at similarly situated properties based on what you built three years later to determine what the value would have been had you had a house on that property that day. Same thing in this case. He says, hey, I didn't convert to condos that day. That's fine. Guess what, on 12/31/03, we weren't valuing your property as condos. We were valuing it as an apartment complex. The taxpayer made the choice several years later to

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convert to condos per statute. The assessor says, now, there's a change in use; let me go see, if it were a condo at that time, what your value would have been because you're not going to escape taxation based on a highest and best use analysis just because you waited until after the control date to convert your property. So, Your Honor, the county's position, the county assessor's position here is, you should deny the motion for directed verdict because, first of all, he has not identified there is a lack of evidence in the record to support the county's position, first test. Since you can't get past the first test per the taxpayer, you should go no further. But let's assume you were going to entertain this on this purely legal theory. Well, the theory doesn't match the law, 12-43-215, nor does the theory match the one piece of evidence he points to, which is the mortgage, which is completely silent on this notion of I cannot change my use. It simply says you cannot pay off the loan early, not use, prepayment of the loan. Thank you, Your Honor.

THE COURT: Thank you. Mr. Rodgers, anything in

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response?

MR. RODGERS: Well, the inability to prepay the loan effectively means he could not convert to condominiums and sell them because they would be unmarketable. You cannot sell individual units that are still subject to a master mortgage. A buyer comes in, he converts; a buyer comes in and says here's $200,000, we want to buy a unit. You go, okay, I'll sell you a unit, but you can't get a clear title because the master mortgage is still in place and the lender says we're not releasing that mortgage. It wasn't legally permissible. This is their test. It's in their documents. We're not valuating a similarly situated piece of property. We're talking about this property. The highest and best use analysis doesn't take into consideration what was the highest and best use for similarly situated properties. It takes into consideration what was the highest and best use for this property. To analogize this to a vacant lot that becomes a house is a red herring because a vacant lot that becomes a house could have been a house back when it was a vacant lot, a legally permissible use,

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and that is not this case. This case is, it became a condominium only after the restriction in that document allowed it to happen. It could not happen before then. It had not happened before then. It was not legally permissible for it to happen before then. And the critical date is 12/31/03. Condominiums were not a legally permissible use on this property, for this particular property, the property that this case is all about, not some similarly situated property, this property. It doesn't pass their test. It doesn't meet the factors.

THE COURT: Okay. Thank you. Mr. Rodgers, at this point, I'm denying your motion for summary judgment on the highest and best use of the property as of 12/31/03. I agree with Mr. Dawson's argument that there is some evidence in the record to support the county's position. Let's see where it goes from here. When I hear more testimony, I mean, you can revisit the motion at a later time.

MR. RODGERS: Yes, Your Honor.

THE COURT: Okay. Thank you. And at this point, we are going to adjourn until 10:00 tomorrow

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morning.
(Adjourned at 4:48 p.m.)
(DAY TWO OF TWO)
THE COURT: Okay. If everyone is ready, we can get started. Mr. Rodgers, yesterday afternoon, I denied your motion for a directed verdict, and I think you're ready to begin your case.
MR. RODGERS: Yes, ma'am. May it please the Court, we call our first witness, Ron Follmann.
THE COURT: Okay. Mr. Follmann, before you take your seat, if you'll face the court reporter, she'll swear you in.
RONALD W. FOLLMANN, having been duly sworn, testified as follows:
MR. RODGERS: Your Honor, if it's okay with you, I'm just going to sit down.
THE COURT: All right.
MR. FOLLMANN - DIRECT EXAMINATION BY MR. RODGERS:
Q: Ron, you and your wife, Marilyn, own and operate The Legends in Mount Pleasant?
A: That's correct.
Q: Since when?
A: We developed the property in 2000.
Q: All right. Before we discuss that, I want to talk with you briefly about your background.

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What jobs have you held?
A: I worked for a bank and, in that capacity, I made loans, all types of loans. I made personal loans, real estate loans, commercial loans. And following that, I --
Q: How many years did you work for the bank?
A: Fourteen years.
Q: Okay.
A: Following that, I went to work for a real estate company. It was a national real estate company and my function there was to borrow -- I switched sides of the table. Instead of being a loan officer, I became a borrower. And so, for that company, I borrowed money on their behalf on major commercial properties such as office buildings, shopping centers, and other types, warehouses, that type of property throughout the United States.
Q: Okay. After that?
A: I did that for about eight years. And then following that, I went to work for a development company. And in my capacity there, I was responsible for supervising the management of multi-family properties. And during the time I was there, we initiated a

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development operation for multi-family throughout the southeastern United States. And during my time there, we developed two properties in Atlanta, one in Richmond, Virginia, and one in Knoxville, Tennessee. And following that, Marilyn and I decided that we wanted to do something on our own, so we looked for a development opportunity, which became The Legends.
Q: So, up until the point that y'all decided that, you had been working for other folks?
A: That's correct.
Q: And decided y'all were ready to go out and do something on your own?
A: That's correct.
Q: All right. Tell the Judge how you went about the process of deciding on The Legends site.
A: Well, being familiar with the southeastern part of the country with my function with the real estate company that was doing development, doing developments, I was -- Charleston was an appealing city. And at that time, there wasn't a great deal of new development of apartment communities. So that's an opportune time if you're a developer to get into a market.

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Q: You said at that time. At that time is when?
A: That was in 1998. And I found an opportunity in Mount Pleasant, a site in Mount Pleasant, and went through the due diligence on that site, put that site under contract, and then went forward and tried to arrange financing.
Q: Okay. You purchased the property when?
A: The site was purchased, I believe, in 1998.
Q: All right. How did you pay for it?
A: We paid for it with our own money. My wife and I basically sold everything we had, including our house.
Q: Take a drink of water. We've got time. All right. You sold your house to raise the funds to buy this parcel, correct?
A: That's correct.
Q: All right. The next step would have been to take the land. Your goal was to build an apartment complex?
A: That's correct.
Q: All right. And then you go about going from step one of having no apartment complex to step two of having one?
A: That's correct.
Q: What's the next step, what do you do?

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A: Well, we -- once we -- and it's a long process to develop an apartment complex. And so we worked diligently to get that done and to get it built with as high a quality as we could, and then we took over the management and leasing of the property.
Q: All right. Before you get to building, though, to build it, you've got to hire a contractor and the contractor demands to be paid in money, right?
A: Correct.
Q: All right. Where did you come up with the money to fund the construction of the apartment building?
A: I looked at financing options and through resources that I had, I became aware of the HUD 221(d)(4) program. It's a housing improvement development program that has the purpose of facilitating the development of affordable housing for people to live in throughout the United States. And after analyzing that source of financing, I determined that I could fulfill the requirements that were required to obtain that financing.
Q: What's the difference between a HUD loan and a

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conventional construction and then a permanent?
A: A HUD loan -- well, a HUD loan is a combination loan. It's a combination of a construction loan and a permanent loan. And the -- once you get through the construction phase, it converts automatically into a permanent loan. And the HUD loan is a 40 year amortizing loan. And it's at a fixed interest rate. And that type of financing is basically not available from a conventional bank.
Q: Is the loan -- is a HUD loan guaranteed by the Federal Government?
A: It is, yes.
Q: All right. So I'm going to show --
MR. RODGERS: Your Honor, do you have the exhibits up there with you?
THE COURT: I do.
Q: Okay. I'm going to hand you what we had previously marked as Respondent's Exhibit Seven. Is that the HUD note and the mortgage that goes with it that we've been talking about?
A: Yes, it is.
Q: So you got a loan from HUD to fund the construction of these apartment buildings?

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A: That's correct.
Q: All right. What next?
A: Well, once we closed on that loan, then we started construction and we completed construction, I was there on a daily basis supervising so that I could make sure it was built to the highest standards possible. And it took quite a few months, I'm not sure exactly how many months it was, now, to build the property and then --
Q: It was completed in 2001?
A: The final -- it was done building by building. The final COs were issued at the end of 2000 and the units were ready at the beginning of 2001, the final units.
Q: All right. It is how many units total?
A: Two hundred units.
Q: All right. And they are grouped in buildings?
A: Yes.
Q: A certain number of units grouped together in buildings spread around the property?
A: That's correct.
Q: Okay. All right. 2001, when you completed construction of the 200 unit building, for the remainder of 2001, how was the building

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operated or the use?
A: It was an apartment community and we leased out the units.
Q: All right. 2002, what was the use?
A: It was an apartment community and we leased out the units.
Q: 2003?
A: Same.
Q: 2004?
A: Same.
Q: When did you and Marilyn decide or start thinking about maybe we will convert this apartment complex to a condominium complex?
A: Sometime in the middle of 2005.
Q: All right. What led you to think that? Why did y'all start entertaining those thoughts?
A: Because we saw other rental properties, apartment communities being converted in our immediate area to condominium units.
Q: Okay. Did you feel like you could make money doing it?
A: Yes.
Q: In April 2006, did you file a master deed?
A: We did.
Q: Respondent's Exhibit Eight, is that the master

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deed?
A: Yes, it is.
Q: Why did you wait until April 2006 to convert this property?
A: Because the mortgage provisions would not allow us to pay off the mortgage until 2006.
Q: Let's look at that specifically, Respondent's Exhibit Seven. The note is on the top. That's the HUD note we've been talking about?
A: That's correct.
Q: All right. Turn to the third page, Exhibit A.
A: Okay.
Q: What's the provision you're talking about that prevented prepayment of the note until 2006?
A: It's the second paragraph on that page.
Q: First sentence?
A: "The indebtedness evidenced by this note may not in any event be prepaid in whole or in part prior to March 1 of 2006."
Q: Also a part of this exhibit is the mortgage that secured the note, correct?
A: That's correct.
Q: Are there provisions in the mortgage itself which speak to that issue, as well?
A: There is.

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Q: Where are they?
A: It's on page A-11.
Q: A-11 at the bottom?
A: At the bottom, item number three.
Q: All right. Hold on a second. A-11, item number three, okay.
A: "The mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this mortgage was executed."
Q: All right. Could you have converted this property to condominiums and started selling them prior to March 1, 2006?
A: No.
Q: Once you decided to convert the property, once you and Marilyn decided to convert the property and the master deed was filed in April 2006, what next?
A: Well, we had to basically pay this loan off. So we had to, as part of our decision, we had to find new financing. And this loan did not accommodate releasing individual units. So this loan had to go away and we had to find new financing.

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Q: Did you do that?
A: We did.
Q: All right. You got another loan?
A: We did.
Q: From whom?
A: National Bank of South Carolina.
Q: All right. Did that lender have any requirements before they would fund this project?
A: They did.
Q: What?
A: Those requirements are called pre-sale requirements. In other words, they want to see that there is a demand for those units and that you can put a certain number of units under contract to show that there is a reason to convert this property. And those provisions were in our loan documents.
Q: All right. So you secured a certain number of pre-sales before you got the loan, correct?
A: That's correct.
Q: And before you would have filed the master deed?
A: That's correct.
Q: Once you got a sufficient number, then you

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moved forward with the process?
A: We did.
Q: All right. You filed the master deed which we've looked at?
A: That's correct.
Q: You also filed an amendment to the master deed, Respondent's Exhibit Nine?
A: That's correct.
Q: All right. Okay. We've got pre-sales; you get the loan. What next?
A: Once we get the new loan, then we start closing on the sale of the units that we have under contract.
Q: At the same time, as opposed to attempting to sell units individually, did you also attempt to sell them as a group?
A: We did.
Q: Tell the Court about that.
A: Well, when we were -- when we were pre-selling units, it seemed to me like they were not selling very fast in comparison to other properties that had sold before us. And it's basically Marilyn and myself and two other people that operate the property. And we felt like this could be too much for us to take on,

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so we decided that we would try to just, since we had the property ready to be converted, we thought it would be appealing to someone other than us to do the conversion. So we went to Cushman and Wakefield in Atlanta and we listed the property to be sold completely by them in March of 2006.

Q: Get any offers?

A: None.

Q: All right. So y'all continue with the process of trying to sell units, correct?

A: That's correct.

Q: All right. What do you do with the units, once it converts and once you have a certain number of pre-sales, what do you do with all the other units in the complex?

A: We rented them. We tried, you know, tried to keep them rented.

Q: Were all those other units, did you continue to use them in the exact same way that you had used them before the filing of the master deed?

A: We did.

Q: The units that were not sold, were any changes made to those units?

A: None.

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Q: Were they upfit in any way?

A: We took, maybe, I think we did three models and we did some upgrades to those so they were examples for potential buyers. But all the rest of the units were left as rental units.

Q: So when the master deed was filed, y'all didn't go and upfit 200 units?

A: No. We didn't have the financial capabilities to do that.

Q: Tell us about the marketing efforts after the filing of the master deed. You had pre-sales in place. Do you remember how many?

A: Well, originally, the loan required us to have 40 and we didn't achieve that. So we had about 22 or 23 and so we, you know, we had a decision to make. We couldn't match the requirements of the original loan. So we decided, after we couldn't get it sold as a complete property, that we would see if the bank would lower the threshold, would lower the pre-sale requirements. They were originally 40. We asked them if they would reduce it to 25 and we had, at that time, I think we had 23. And they said they would after -- it took a while, but they said they would and so then we were able

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to go ahead and close the loan.

Q: All right. The remainder of 2006, ultimately, how many units did y'all sell total in 2006?

A: I think it was about 40 --

Q: Forty-four?

A: Forty-four.

Q: All right. I'm going to use that as a chart. So, in 2006, y'all had a total of 44 sales?

A: That's correct.

Q: All right. And then does this chart, I'm going to mark that Respondent's Exhibit Twelve, does that show the sales history of The Legends?

(Respondent's Exhibit Number Twelve was marked for identification purposes.)

A: Yes.

Q: All right. Moving into 2007, does that show the sales of units in 2007?

A: Yes.

Q: All right. And into 2008, the sale of units in 2008?

A: Yes.

Q: All right. You had one in 2009?

A: That's correct.

Q: All right. At the beginning of 2007, as we move into 2007, tell us about the market for

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these units. We see the sales. What are you experiencing?

A: Well, in 2007, it's very slow traffic, interest was dropping off and our sales reflected that.

Q: All right. Let's turn to the appeal in this case. What led you to question the assessment notices that you received for the 121 units at issue today?

A: Well, number one was the magnitude of the tax bill. When I added up the tax bill for those units, the county had sent me a stack of bills that's about two inches thick and the total of those bills is about $224,000 for 121 units.

Q: You would have received those when?

A: I think I got them probably in September of '08.

Q: Okay. So you get those assessment notices in 2008 and you decided to challenge?

A: Yes, I did.

Q: All right. What did you do? Did you start investigating or how did you go about trying to challenge it?

A: Well, the first thing I did was I tried to do some due diligence on the value that I felt was appropriate. And so I was looking at the fact

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that, you know, people were not buying the units and people were not coming through the door. And I looked at the economy at the time and how, basically, the housing bubble had burst and the financial status of our country had changed. And I just felt that the county had basically put a value on my units of $18,877,000 and I didn't think they were worth that.

Q: All right. Did you contact the county assessor's Office and say, can you explain your position to me?

A: I did.

Q: All right. What did they tell you?

A: They said that we have to value these as individual condos. And I said but I'm not using them that way. I'm using them as apartments. And they said, well, we have to value them as individual condos.

Q: All right. What's the problem with that if that's their position on how they value all individual condominium units in Charleston County, that's their position? They have the right to do that.

A: Well, yeah, as I did some due diligence, I

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became aware of a couple situations that I felt raised the equity issue. And I became aware of the Tamsburg properties and that case and I also became aware of Sabal Palms, which is a condo community that converted at basically the same time we did and was selling units at the same time we were. And they were not assessed. Those units, their condo units were not assessed the same way mine were assessed.

Q: As a part of this challenge, did you ever learn what you thought was the reason for why some condominium units in Charleston County get treated differently than others?

MR. FERRARA: I'm going to object to the question, Your Honor, the way it's characterized. It insinuates that the assessor treats or values properties like -- can you read back the question?

MR. RODGERS: Do you want me to rephrase? I can come up with another one if that's --

THE COURT: You want to rephrase, okay. I'm going to allow you to rephrase.

Q: As a part of your investigation, did you learn about the Tamsburg case, a South Carolina Supreme Court decision?

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A: Yes.

Q: When you attended the hearing in this case before the Board of Assessment Appeals back in the fall, was the Tamsburg case discussed by the Charleston County Assessor?

A: Yes.

Q: And by your lawyer?

A: Yes.

Q: That was part of the appeal?

A: Yes.

Q: Do you know whether the condominium complexes in Charleston County that are valued by the assessor's office under Tamsburg, have any of those complexes sold units?

A: I'm not sure.

Q: Okay. But you have. We know that, don't we?

A: We did. We did, yes.

Q: You sold 44 units in 2006?

A: That's correct.

Q: Thirteen units in 2007?

A: Correct.

Q: All right. But what, but what about -- how are you like -- why do you think you're like that?

A: Like the Tamsburg properties?

Q: Yes.

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A: Because, you know, as I became familiar with that case, it seemed to me that the crux of that case was what were the units being used for. And in the Tamsburg case, they were being used for apartments and the county was trying to assess them on individual townhome values. And the result of that case was that --

MR. FERRARA: I have to object, Your Honor. He's drawing a conclusion about -- he's drawing a legal conclusion. Your Honor can read the case and draw your own conclusions you want from the case, but he's not an expert. He's not -- he can't make a legal conclusion on what the case says or doesn't say.

MR. RODGERS: All right, Your Honor, that's fine.

THE COURT: Okay. Proceed.

Q: I'll show you Respondent's Exhibit Six. Did you receive that document from the Charleston County Assessor's Office?

A: I did.

Q: What does that document show on it? What information does it have?

A: Well, it's a spreadsheet where the county determines the value of my property and it was done on September 26th of '05.

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Q: Okay. And we're not saying that's a part of this case, but does it contain a cap rate?
A: It does.
Q: What is the cap rate?
A: 8.3 percent.
Q: All right. I want to talk about the use of the 121 units that are at issue in this case. How are they being used today?
A: As apartments.
Q: How were they being used as of December 31, 2007?
A: As apartments.
Q: How were they being used as of December 31, 2003?
A: As apartments.
Q: Have they been used as apartments continuously since the buildings were constructed in 2000, 2001?
A: Yes, they have.
Q: How do you want the Charleston County Assessor to value the 121 units?
A: I want them to be assessed based on the income they produce.
Q: As apartments?
A: As apartments.

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MR. RODGERS: Those are all the questions I have, Your Honor.
THE COURT: Thank you. Mr. Ferrara, are you going to do cross of this witness?
MR. FOLLMANN - CROSS-EXAMINATION BY MR. FERRARA:
Q: You mentioned that you had placed the property up for sale as a whole with Cushman and Wakefield in Atlanta in March of 2006, is that correct?
A: That's correct.
Q: Was that before you filed your -- before you filed your master deed?
A: Yes.
Q: And when you placed the property up for sale with Cushman and Wakefield, did you have them market it as an apartment complex or as 200 condominiums or --
A: As a property positioned to be immediately converted to condominiums.
Q: As a property to be conditioned to be converted?
A: No, I think what I said was as a property that was positioned --
Q: Positioned.
A: -- to be immediately converted to condominiums

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in a very short period of time.
Q: And at that time when you had it placed with Cushman and Wakefield, no units were sold, is that correct?
A: We had units under contract.
Q: How many units did you have under contract?
A: We had about 23; 22, 23.
Q: And I believe you testified that you had to go to the National Bank of South Carolina and ask them to lower their pre-sale requirements from 40 to 25. They agreed. Then you went and closed on those units that you had pre-sold, is that correct?
A: That's correct.
Q: And did you ever go to HUD and ask them if they would agree to some sort of arrangement regarding the prepayment penalty clause?
A: No. Based on my experience as a loan officer and my understanding of those loan documents I signed with HUD, I had a thorough understanding of what you could do and what you couldn't do before I signed those loan documents.
Q: But still you never went to HUD to ask them whether they would renegotiate the HUD note and mortgage, did you?

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A: No, there was no point.
Q: And the mortgage with HUD says nothing about whether or not the property could be placed into a horizontal property regime, does it?
A: It's prohibited.
Q: I'm sorry?
A: It's prohibited.
Q: And it's prohibited pursuant to that clause that you referred to?
A: Number three.
Q: And clause number three that you're referring to says, "The mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time the mortgage was executed." That's what it says?
A: That's correct.
Q: And your interpretation is that that prevents the property from being placed into a horizontal property regime?
A: Yes. The purpose of the program --
Q: Yes, that's all I need to know. You said that you want to be treated like Sabal Palms, is that correct?
A: I want my income to be the basis for the

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valuation of my units and I believe Sabal Palms is valued that way.
Q: All right. Well, let me -- in 2003, would you agree with me that the highest and best use of the apartment complex was as or the use was as an apartment complex in 2003?
A: Yes.
Q: In fact, you testified that it was used as an apartment complex in 2003, 2004, and 2005?
A: Correct.
Q: Would you agree that the subject property, the 121 units that are the subject of this appeal, were as an apartment complex in 2003, the highest and best use was as an apartment complex in 2003?
A: Yes.
Q: In fact, they were valued as an apartment complex, correct?
A: By whom?
Q: By the county assessor in 2003.
A: Yes. The hundred -- can you restate your question?
Q: The 200 units were valued as an apartment complex in 2003 by the county assessor?
A: Correct.

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Q: And in fact, they went on the tax rolls as an apartment complex in 2003, is that correct?
A: Correct.
Q: And you never asked for any refunds at that time for the taxes you paid on the tax bill for the apartment complex, did you?
A: For 2003, I don't believe so.
Q: And you never asked, never had them send a -- the county assessor never sent any corrected tax bills because that wasn't an issue in 2003, was it?
A: I don't believe so.
Q: Okay. In fact, you paid taxes in 2003 on the property as highest and best use as an apartment complex of 200 units, is that correct?
A: That's correct.
Q: Okay. And then we fast forward to 2006 and you submitted the units to a horizontal property regime, correct?
A: Correct.
Q: And that changed the use of the property, is that correct?
A: That's correct.
Q: Okay. And so the assessor valued the units

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under the horizontal property regime in 2006 based on the 2003 values, is that correct?
A: Say that again.
Q: The assessor valued the properties under the horizontal property regime based on the 2003 values because 2003 was the last equalization reassessment program.
A: In what year are we talking about?
Q: When you converted in 2006 to an HPR --
A: Correct.
Q: -- the condition of the properties changed, is that right?
A: Yes.
Q: Okay. And so, in 2007, would you agree that the highest and best use of the property was as a horizontal property regime, 200 fee simple individual single family residential units?
A: Yes.
Q: Okay. And so the county assessor valued the properties that way, correct?
A: In 2007, yeah.
Q: Okay. And the county assessor valued the properties as a horizontal property regime for 2007 based on values in 2003, is that correct?
A: I don't know.

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Q: Okay. The assessor didn't value the property as it was a horizontal property regime in 2007, did they?
A: Say that again.
Q: All right. Let me just submit to you that the assessor valued the property in 2007 as a horizontal property regime with values as of 2003. I'm sorry. Strike the question, I'm sorry. The assessor did not value -- did the assessor value the property in 2007 as a horizontal property regime with values as of 2007?
A: I believe so.
Q: Well, the question before this Court is, what are the value of your 121 units in 2007. And to arrive at that value, the assessor doesn't look at comparables in 2007 but looks at comparables in 2003, is that correct?
A: I would have to check.
Q: You would what?
A: I would have to look at what they did.
Q: Well, if you would like, we will value them in 2007, but yesterday, your -- I believe your lawyer would object, because we went through a whole analysis yesterday valuing them in 2003.

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A: Okay.
Q: Are you with me?
A: I'm with you.
Q: Okay. So that's why the assessor looked at the condominium units that you have today on the ground of 2007 retrospectively to 2003, correct?
MR. RODGERS: Objection. You're asking him to comment on why the county assessor did it a certain way.
MR. FERRARA: All right. Well --
THE COURT: I tend to agree with that. It's sustained.
Q: The county assigned a 2003 value to your 2007 property. That's what we talked about all day yesterday. Do you agree with me there?
A: Yes.
Q: Okay. So the assessor's office is giving you a tax break under the law under 12-43-215 and putting you on the books at 2003 values because of the change of conditions in 2006. You're not being valued as if the property was in 2007 but we're looking back to 2003 values and you're getting the value as if those were condominiums in 2003. The assessor is looking

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at condominium values in 2003 and assigning those condominium values to a 2007 property, isn't that true?
MR. RODGERS: Objection. That's a ten-sentence question. I object to it. That's a speech. It's a statement. It's not a question.
THE COURT: Could you rephrase that question, please. I agree with Mr. Rodgers.
Q: Well, Mr. Follmann, are you asking that the Court look back at 2003 and value your property as if it was an apartment complex?
A: Yes.
Q: Okay. And the highest and best use of your property in 2006 was as condominiums in a horizontal property regime, correct, fair statement?
A: When I converted, correct.
Q: And because of the change of conditions that occurred in 2006, the assessor reassessed your property?
A: Correct.
Q: And reassessed your property with a 2003 value?
A: Correct.
Q: So the assessor didn't assign a value to your property in 2007 as condominiums, did she?

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A: I think they did originally.
Q: All right. Do you know what the date of value that assignment of value was placed on in 2007?
A: I think it was 12/31 of '07.
MR. FERRARA: Your Honor, I think that concludes my questions of this witness in my cross-examination.
THE COURT: Okay. Do you have any?
MR. FOLLMANN - REDIRECT EXAMINATION BY MR. RODGERS:
Q: When y'all filed the master deed in April of 2006, did the use of any of these 121 units that are part of this appeal change?
A: No.
Q: They had been used before that how?
A: As apartments.
Q: They continued to be used after that how?
A: As apartments.
Q: Up through today?
A: Correct.
Q: Is it your position that the highest and best use of those 121 units as of 12/31/07, the 121 units, was as a condominium or as apartments?
A: As apartments.
Q: That's how they were being used?
A: That's correct.

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MR. RODGERS: I don't have anything else. Thank you, Your Honor.
THE COURT: Okay.
MR. FOLLMANN - EXAMINATION BY THE COURT:
Q: Mr. Follmann, I've got a couple of questions for you. Do you reside on the property?
A: No, I don't.
Q: Okay. The units that you're still marketing, I think it's what, 22 of them?
A: Actually, we're not marketing them anymore.
Q: You're not marketing those either?
A: No. We can't get realtors to come to our property anymore because they can't sell any units. So we have ceased marketing.
Q: Okay. Thank you. Thank you for your testimony, Mr. Follmann.
A: Just leave all the exhibits here?
MR. RODGERS: Yes. Your Honor, would you permit me a five minute break?
THE COURT: Yes, that's fine. We'll take a ten minute break.
(A break was taken from 10:59 a.m. until 11:09 a.m.)
THE COURT: Okay. We're back on the record. Mr. Rodgers, are you ready to call your next

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witness?
MR. RODGERS: Yes, Your Honor. Respondent calls Frank Headley to the stand.
FRANK HEADLEY, being duly sworn, testified as follows:
MR. HEADLEY - VOIR DIRE BY MR. RODGERS:
Q: Mr. Headley, what do you do for a living?
A: I'm a real estate appraiser.
Q: How many years have you done that?
A: Since 1979.
Q: What types of property do you appraise?
A: I did residential from '79 through 1984. In 1984, I started to do commercial and for the past 15 years, I'm almost exclusive in apartments and, of course, condominiums. I've done those and subdivisions.
Q: Do you have any licenses or certifications?
A: Yes. I'm certified in South Carolina, certified general, certified general in Georgia and certified general in North Carolina.
Q: You live in the Columbia area?
A: Yes, sir.
Q: Are you familiar with the Charleston market?
A: Yes, sir. I've done numerous appraisals in the Charleston market over the years, apartments

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and condominiums.
Q: And when I say Charleston market, I don't mean downtown, I mean Charleston County?
A: Yeah, yeah.
Q: Have you ever been qualified as an expert witness in the South Carolina Court System?
A: Yes, sir.
Q: Have you ever been qualified as an expert witness before this Court, the Administrative Law Court?
A: Yes, I have.
Q: All right.
MR. RODGERS: Your Honor, I move to qualify Mr. Headley as an expert in the appraisal of real estate.
MR. DAWSON: Your Honor, I'll take the liberty on this witness, if it's permissible. And I would like to ask a few questions before you rule on that matter.
THE COURT: Go ahead.
MR. HEADLEY - VOIR DIRE BY MR. DAWSON:
Q: Mr. Headley, Mr. Rodgers is proposing to offer you as an expert witness in real estate appraisal and by no means do I take exception or issue with your credentials in that area.

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So my questions aren't going to be focused on that issue.
A: Okay.
Q: I'm sure you're qualified there.
MR. DAWSON: Your Honor, my intent is to hopefully limit what you allow him to testify to.
Q: And so I want to ask you a couple of questions on --
A: Okay.
Q: -- is if in your prior experience, have you worked with assessors based on dates of value to offer opinions of value in a valuation case?
A: Yes, sir, I have. And I've worked with assessors when values went south to offer a valuation. So I am very familiar with the concept.
Q: Good. I understand your credentials allow you to do work in South Carolina, North Carolina and Georgia.
A: Yes.
Q: The work that you're describing, has that occurred with counties in South Carolina?
A: Yes.
Q: Okay. So you would have done work with Richland County and the assessor there?

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A: Yes.
Q: And in Charleston County?
A: No, I've never had an occasion -- yes, I did have occasion one time to do some work in Charleston.
Q: Do you remember when that case occurred?
A: Yes, that was an apartment complex somewhere around 2005, 2006.
Q: Okay. And so in that case --
A: And I worked with Steve when he was the tax assessor.
Q: Thank you, sir. One other question for you. In the practice of valuing property, do you regularly look at mortgage documents to determine legally permissible under the highest and best use standard?
A: Unless -- unless it's pertinent, I would not do that. The issue sometimes is -- now, you can qualify me as pretty much of an expert on HUD because I do HUD 221(d)(4) appraisals. I did not do the appraisal on that complex, but, you know, pre-construction. But on a regular basis, I do work for HUD and I'm familiar with their prepayment penalties and various other things. I'll be glad to expound on that if you

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want me to.
Q: I don't want you to. I suspect the counsel for the taxpayers will love for you to do it and that's the reason I want to understand your background and experience in your reviewing mortgage documents that include either prepayment provisions or prepayment prohibitions because I want to get a better understanding from you on what your experience is in reviewing those documents that include those types of provisions. Can you speak to that?
A: Yeah. And, you know, it's simple. There is a courthouse and it's on the computer.
Q: Okay.
A: So, if you want to look something up, you can generally look it up. Having worked with HUD for about 15 years as a fee appraiser, as a fee appraiser with them, I know what their policy is. I know what their feeling is about conversion to condominiums. They don't particularly like it and I can tell -- I can quote some sources on that because it's happened. I think there was one turned down in North Carolina recently because the director of

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the HUD said we're not going to make a loan on something that's going to be a condominium and, you know, it was something that could in five or six or ten years be converted. So, yeah, I'm very familiar with that sort of thing.
Q: When you review those documents, whether you pull them off the internet or your client is handing them to you, do you seek assistance from other outside sources in attempting to interpret the provisions of the mortgage?
A: I would probably, if I had a question about it, I'd probably make sure the closing attorney knew about it or my lender knew about it if I was working for a lender, which normally we are. If I was working for a lender, I'd make sure that they knew, you know, that there was an issue. I was made aware in my first sessions with these folks that there was a HUD mortgage and there was a prepayment penalty --
Q: In that instance, did you --
A: -- in that HUD mortgage, and I saw the mortgage and I know that HUD has all sorts of provisions that are designed to -- for you not to, you know, get out of the program because they're in the program of housing. But, you know, and

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they're -- I don't know. I'm not personally aware of a case where they've let somebody out of a prepayment penalty. And part of that is HUD's the insurer. The other part of that is that it's made not -- the loan is not made by HUD, it's made by a lender who has spent a lot of time getting that loan, you know, approved, closed, whatever and they want to get a return on their investment, and they make the borrower sign and it's a practice today, you know, right this minute. If you sign a HUD document, you are going to have to go along with the same provisions. So it's a matter of the lender wants to make a return on his investment and doesn't want it to be paid off and they require it.
Q: Did you get assistance in reviewing this document?
A: What?
Q: The document that's been discussed in this case, which is the prepayment provision in this case and your --
A: No. Stan and I have talked about it. You know, he's an attorney. I assume he's familiar with mortgages.

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Q: Sure. So did you get advice from Mr. Rodgers in interpreting the provision --
A: No.
Q: -- or did you do that independent of anyone else?
A: No, I did that independent of anyone else. I mean, you know, it's a matter of fact. It's a matter of course and it's a matter of, you know, what I do on a regular basis. In fact, I'm working on two or three HUD situations right now.
MR. DAWSON: Your Honor, no objections. Thank you.
MR. HEADLEY - QUALIFICATION BY THE COURT:
THE COURT: Okay. Thank you. He's qualified as an expert. Thank you.
MR. HEADLEY: Thank you.
MR. HEADLEY - DIRECT EXAMINATION BY MR. RODGERS:
Q: I want to get your opinion up front before we talk more about it in some detail. So, up front, what is your opinion as to the fair market value of these 121 units as of 12/31/03?
A: As of 12/31/03, my opinion is, as an apartment complex, at about, I think it was $8,900,000 that I put on it from an income approach standpoint.

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Q: All right. Did you prepare a report?
A: Yes, I did.
Q: Did you bring that report with you?
A: Yes, sir.
Q: Is the exact number in the report?
A: Yes, sir.
MR. RODGERS: How about -- we pre-marked, Your Honor.
A: $8,920,000.
MR. RODGERS: Your Honor, did I give you a copy of his report already?
THE COURT: No, I don't have a copy of Mr. Headley's report, no.
MR. RODGERS: Respondent's Exhibit Ten.
Q: Mr. Headley, have you got a copy of your report right in front of you?
A: Yes.
Q: It is Respondent's Exhibit Ten?
MR. RODGERS: Your Honor, do I need to show it to him or can we agree?
Q: I'm just asking, is your report marked as Respondent's Exhibit Ten, correct?
A: Is my report? I'm sorry.
Q: Is your report marked as Respondent's Exhibit Ten?

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A: Thank you. Yes.
Q: Okay. All right. Where in your report does it state your opinion as to the fair market value of these 121 units as of 12/31/03?
A: It states it in the cover letter on the second page.
Q: All right. Where is it?
A: The second page after the title page. And you can read all of the opinions of value based on certain parameters.
Q: I want to make sure everybody's clear. What is your opinion as to the value?
A: Oh, $8,920,000.
Q: All right. Generally, not specifically, generally, what is your opinion based on? Your investigation of the situation, those kind of factors.
A: Well, we looked at -- we looked at the Charleston apartment and condominium market, number one. You'll find in our report, since we do a lot of work in Charleston, the comparables and so forth were pretty contemporaneous to, you know, to the 2003 value dates. In fact, we had done enough work that I was able to pull expense comparables, et cetera, in the Charleston area from our files.
Q: Okay. So you looked at the Charleston market in general?
A: The Charleston market in general. And I take that into consideration meaning Charleston County, Berkeley County and Dorchester County because sometimes, frankly, I don't know which county I'm in until I look at a map.
Q: How about the specific property at issue, The Legends, did you analyze that property in particular?
A: Yes.
Q: Okay. Did you rely in forming an opinion on your education and experience?
A: Yes, partly.
Q: Okay. In determining the fair market value of these 121 units as of 12/31/03, did you perform a highest and best use analysis?
A: Yes, we did. I think the highest and best use, you know, we had to look at 2003. The highest and best use in 2003, let me get to the page. Sorry, Your Honor, it's in here somewhere. Highest and best use is fairly extensive. It started out on page 30 and it stated, this section -- well, you can read that. We looked at properties that absorbed and then when we get over to page 41, and you can look at my conclusion which says should be as if they're vacant, the subject property based on its zoning could be developed with apartments or condominiums with its probable use being for the development of a multi-family apartment complex.
Q: All right. As a part of your highest and best use analysis, did you consider whether the property could be used as apartments?
A: Yes, we did.
Q: All right.
A: We considered condominiums, I'm sorry.
Q: That's okay. And as a part of your highest and best use analysis, did you also consider whether the property could be used as condominiums?
A: Absolutely.
Q: Okay. What did you conclude about whether the property could be used as condominiums as of --
A: In 2003 --
Q: Yes.
A: -- there was no way to convert to condominiums because of the prepayment penalty during that

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time period.
Q: And do you say that --
A: And my highest and best use was for continued use as a multi-family apartment complex, which was in fact what they did.
Q: Page 20 of your report.
A: Uh-huh (affirmative response).
Q: First paragraph, the subject property was developed as an apartment community in 2000. It as converted to a condominium development in 2006. It is noted that a clause in the HUD mortgage prevented prepayment until March 2006. So the property could not have been converted to condominiums during 2003 and 2004, which was a prime period for condominium conversion sales. You wrote that in your report?
A: Yes, I did.
Q: Do you still believe that sitting here today?
A: Yes, I do.
Q: Tell us about your experience with HUD loans. Are you familiar with HUD loans?
A: Yes.
Q: Tell us about it.
A: HUD loans are relatively difficult to get. They're 40 year loans. Usually, processing

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time usually takes about a year, costs the sponsor a substantial sum of money just to go through the process of appraisals and all of the other things that you have to do. Anything from noise studies to you name it, HUD requires it.
Q: Is the sponsor the potential borrower?
A: The sponsor is the potential borrower, yes, sir.
Q: All right. Are you familiar with prepayment -- it's not -- is it -- the five year waive, it's not a --
A: It's a lockout.
Q: -- prepayment penalty, is it?
A: There's not a penalty.
Q: Right.
A: The mortgages are very clear on that. For the first five years, you can't pay it off period and then after that, you can pay it off with a five percent penalty in the sixth year, four percent in the seventh year, et cetera, down to one percent, down to zero. In other words, it's a ten year, it's a ten year got you. So, if you want to convert, say when you couldn't convert, then the borrower would have to pay a

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substantial sum of money, five percent of the loan amount, just to convert. That's the up front cost.
Q: That lockout provision in this HUD loan, is that a fairly standard provision in HUD loans?
A: It is absolutely standard. Now, I don't read every mortgage word for word, but I know that ever since I've been doing HUD loans, they were -- they've had this provision. It's not uncommon in the conventional apartment long-term financing market even without a HUD loan to have prepayment penalties. So it's not just HUD that's being mean. They're all being mean.
Q: Do you know the policy behind a lockout provision in a HUD loan?
A: Yeah, they don't want the use to change and, of course, the lender wants to get his interest at least during that first five year period because, obviously, you know, they want a return on their investment. It is approved by HUD; it is insured by HUD. But the lender puts up the money. So the lender doesn't have to go through all that grief and aggravation to have somebody say, well, you know, the condominium market's real hot today, so, you know, sorry,

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we just closed the loan and we're converting to condominiums, thank you very much. And that's the purpose of it.
Q: And this loan prohibited that until five years?
A: Yes, it prohibited it for five years. Whether it's right or wrong, good or bad, that's not my -- that's not my call.
Q: All right. Was it your conclusion that the use as apartments was the only viable candidate for highest and best use as of 12/31/03?
A: Yes, because it couldn't be converted 12/31/03, so the only thing he could do with it then was apartments, period.
Q: All right. Let's talk about your valuation of the 121 units as apartments.
A: Okay.
Q: That is the meat of your report?
A: Pretty much. We did look at some condominium aspects of it, but the meat of the report is the income analysis and valued by direct capitalization.
Q: All right. In the testimony yesterday, it struck me that if you value an apartment complex using the income approach, it sounded like there's a simple formula for doing that.

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A: Well, you've got a fairly formula. It's the net operating income before debt service divided by the capitalization rate. But I wouldn't want my clients to think it's that simple. I still have to figure all that out.
Q: All right. But where you end up, your analysis, when you're using the income approach to value units being used as apartments, you end up with a net operating income, NOI?
A: NOI, that's correct.
Q: You calculated that number?
A: Yes. Yes, sir.
Q: And then you divide it by a cap rate?
A: The capitalization rate, yes.
Q: Is that method for determining the value of property based on the income approach standard?
A: It's very standard.
Q: Is that the way to do it?
A: Yeah. I don't believe -- I'm sure there's other ways to do it, but every lender I know of wants to see that in the report. Whatever else you do, you better have that in the report.
Q: All right. Did you determine a net or the net operating income, the NOI, for these 121 units?
A: Yes, I did.

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Q: In your report?
A: On page -- I did two valuations, on page 54 and on page 55.
Q: All right. Not in excruciating detail, but walk us through the analysis that you used to value these properties using the income approach.
A: Okay. First of all, we looked at the gross potential income of the property. We had information, both on the HUD audit and on the developer's profit and loss, as to what the gross potential income was for that year. We took off concessions and loss to lease, which was in the -- which was in the calculation and then we did an eight percent vacancy. I've had some confusion from time to time on loss to lease but it's simply the fact that the gross potential income assumes that you have all the units rented at X number of dollars. That doesn't normally happen, so your loss to lease is -- your loss to lease is basically concessions or other gifts to the owner or a lower lease rate. Then we take off the vacancy and collection loss, which we had estimated at about eight percent. Then we came down to what

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we call an effective gross rental income, which was $1,171,629. And then based on their operating statements, they had miscellaneous annual income of around $60,000 which was $500 a unit, which is fairly strong, but we included it. We took off the management fee, which was being charged.
Q: All right, stop there.
A: Yes.
Q: The beginning, the gross potential rental income and then the next category, the next categories, the purpose of this analysis is to determine the net operating income for these 121 units?
A: That's correct.
Q: All right. If you go through that process, your answer for a net operating income is what?
A: My answer for net operating income, I did two scenarios. The first scenario, it was $735,807.
Q: Okay. That number, do you know if the county in this case did a similar analysis as to one that you're showing on page 54?
A: I think they did somewhere.
Q: Do you know how --

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A: I heard that yesterday.
Q: Do you know how your net operating income of $735,807 compared to theirs?
A: No, I didn't look at it. Have you got -- oh, I think I have that right here, if I may. Maybe it's right here. You're talking about the report prepared by Mr. James? That would be his report.
Q: I'll tell you what.
A: Because there have been several reports and all sorts of values.
Q: There have been several reports and all sorts of values. Would it surprise you if the values that the county came up with for net operating income were very close to yours?
A: No, it wouldn't.
Q: That wouldn't surprise you, would it?
A: No.
Q: Okay. So your analysis, the way you determine income approach is you determine that number, $735,000 and change, and you divide it by a cap rate, correct?
A: Correct.
Q: And that's going to yield a number?
A: That's the number.

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Q: All right. We talked about how you determine the top number in that equation. How do you determine the bottom number, the cap rate? First, what is a cap rate?
A: Well, capitalization rate is simply -- if you can you go over to page 53. The capitalization rate is simply the sales price of a property or the net operating income of a property, pardon me, divided by its sales price. And that will give you the capitalization rate. The preferable method is to get it out of the market and I usually use six, seven, eight, nine, ten, whatever because, you know, they can fluctuate a little bit and then you have to make a judgment call. But you look at them and you look where they are, what kind of complexes they are, and you get that data from knowing what the net operating income is based on information you've received from reliable sources. Sometimes it's from properties you've appraised and then you know what the sales price is and we always try to find out if there were any extenuating circumstances in the sales price. In other words, was anything -- was there an extra commission paid out of closing

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or something like that. Sometimes that happens. So anyway, getting the data is the hard part. Figuring out what the cap rates are, that's the easy part.
Q: Okay. Sounds like cap rate, you pull comparables, get sales prices, divide it by -- I'm sorry, you divide the net operating income by sales price and you've got a cap rate.
A: You've got a cap rate.
Q: And then you would compare different cap rates that you have deduced from doing that?
A: Yes.
Q: And then you use those to construct the cap rate that you're going to use for the subject?
A: Right. And basically, you want to find out what's going on in the market at that time, not what -- not going on in the market. There was plenty of activity in 2003, 2001, '02 and '03, you know, to get a good indication.
Q: And what cap rate did you use?
A: We used an 8.25 and our averages on the cap rates that we had, we had cap rates from 7.71 percent. I'm sure there's some lower than that. And we had some at 9.03 percent. I'm sure there were some higher than that. They

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averaged about 8.31 percent and the midpoint in the overall range was like 8.37 percent. So we selected 8.25 percent.
Q: And then the answer on what is the valuation is simply we divide $735,807 by your cap rate of 8.25 percent and we get $8,919,000?
A: Yes, sir. And you might want to look at the next page because that makes a little difference.
Q: Okay. Is it your opinion, for this case, for this property, the cap rate should be 8.25 percent?
A: As far as I'm concerned, 8.25 percent is a reasonable cap rate for that point in time.
Q: All right. If we changed the cap rate and lowered it to 7.5 percent?
A: You would increase the value.
Q: Do you know how much?
A: No, I --
Q: Have you got a calculator?
A: I don't have a calculator. I've got one over there, I've got a computer. Let me get my HP 12c.
Q: Okay. Changing the cap rate is going to change your valuation?

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A: Sure.
Q: All right.
A: You want me to do it by '02, okay, I got you.
Q: So, to perform that calculation, you simply take the net operating income, divide it by a lower cap rate of seven and a half percent, and what do we come up with?
A: I'm used to an HP 12c. Your Honor, may I step back and get my calculator out of my briefcase?
THE COURT: It's in your bag?
A: Yes. Yes, ma'am.
THE COURT: Okay.
A: Sorry, Your Honor. I would come up with $9,810,760.
Q: All right. So, if we lower the cap rate to seven and a half percent --
A: Yeah.
Q: -- is that in the ballpark?
A: We're used to giving and we're generally required to give a number, but all numbers are in the ballpark.
Q: Right.
A: You know, a little bit here, a little bit up, a little bit down.
Q: You consider your 8.25 to be the best?

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A: Well, yes.
Q: Well, would you concede the 7.5 is in the realm of reason?
A: Yes, it's in the realm of the comps. Well, it's a little bit lower than the comps that we have in this report, but it's in the realm of reason.
Q: Okay. And if you use that comp rate, it takes your valuation from $8,900,000 to $9,800,000, right?
A: That is correct.
Q: Your chart on page 54, you did one on 55, it comes up with a little different number, but we didn't go through each of the elements you looked at -
A: Okay.
Q: - in determining the 735 number. But on page 54, I do want to ask you about the number for taxes because that changes between the two reports. Explain, if you would, how you came up with, on page 54, down midway under fixed expenses, property taxes?
A: Okay. What I did, 2003 was the base year for appraisals in Charleston County. The assessment, I don't believe was implemented

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until 2005, if I'm correct. In 2003 -- usually, after a reassessment, we normally expect to see, because at that time, property values, you know, apartments and so forth and houses and so forth were increasing. So we generally expect to see the County Council's lowering the -- lowering the tax -- the tax millage rate after a reassessment. So, to be fair in the assessment, what I did was I did my analysis and then I used the 2005 millage rate, which was lower than the 2003 millage rate. In other words, if I had used 2003, I was using a base year value; and if I'd have used 2003, I would have come up with a lower value, because the taxes would have been higher. Okay. So I used the 2005 just so, you know, just so we would be on an even -- on an even plain. In other words, the advantage was to the county, not to the client.
Q: And those taxes on page 54, that analysis is included within your determination of the net operating income of $735,807?
A: That is correct.
Q: All right. That methodology for determining the value of these 121 units?

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A: Yeah, that was based on 121 units and we applied the tax rate. We were using a 2003 base year and we knew what the other rates were. And we knew rates were probably going down because Charleston County I think went up about 50 percent in value, if I'm not mistaken between the prior reassessment, you know, from houses and commercial properties and everything else. Matter of fact, they published that and I remember -- I remember looking at it. It was a nice figure.
Q: All right. That methodology -
A: Yeah.
Q: - taking the net operating income, dividing it by the capitalization rate to come up with a number, it's your opinion that that's how you do it?
A: That's how I do it.
Q: All right. And when you do that analysis for this case, for these 121 units, your opinion as to the fair market value is, as shown on page 54 of your report, $8,919,000?
A: Or it may be $8,920,000 rounded.
Q: $8,920,000 rounded, okay. Let's change subjects. Should these 121 units be valued as

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individual condominiums?
A: Absolutely not.
Q: Why?
A: Well, first of all, standard appraisal practice, if I were to appraise the condominium -- the condominium units, the 121 units and -- I noticed they didn't add them up. That's clever, but somewhere along the line, you've got to add them up and they come up to 17, 18 million bucks. In the 2003 analysis, I think it was $18 million something. Anyway, those are retail values. In other words, that's what the homeowner would pay for a property. Now, you get into kind of a sticky situation. We have one owner and one ownership entity that owns 121 condos. If you appraise 121 condos, you have to use a discounting technique similar to what the county used in their hypothetical highest and best use hypothetical analysis.
Q: All right. So let me stop you.
A: Yeah.
Q: Assuming you overcame the hurdle of whether it's legally permissive, let's set that aside for the time being and assume you get past that. We'd have to get past that before we can

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value as condos, wouldn't we?
A: Oh, yeah. We have to get past that.
Q: Okay. Let's assume we get past that and we're going to go ahead and value the 121 units --
A: Uh-huh (affirmative response).
Q: -- at issue in this case. Can it be done?
A: Sure.
Q: Sure. And they can be valued as condominium units?
A: Yes.
Q: How should it be done?
A: Well, the first step in the process, and Steve, in his 2007 report -
Q: Who is Steve?
A: Excuse me, Mr. Everman, in his 2007 report, we used a similar technique and, in fact, quoted the verbiage from the exact page that I'm looking at right now, telling you how to appraise a condominium project. So did Mr. James, they used it in their highest and best use analysis. But their conclusion was that reason in the highest and best use analysis, but that's all. And the question is, is based on their numbers, there was a substantial difference as I recall. And they said no, the

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young lady who did the values and we're not going to add them up for you, but that's going to be the value. We're going to do this as an individual purchaser. The problem is, when you do appraisals of a condominium project, and I would have to say that, if you own 121 units that you can't sell and you call me or any appraiser in Charleston to appraise that property for say a bank loan or whatever, we would have to use the discounting technique. And we would come up with a discounted value and the discounted value in this case is called market value.
Q: All right. Did the county, by way of Mr. James -
A: Yes.
Q: - actually do that type of analysis in this case?
A: Yes, he did it on the 2003 analysis.
Q: And his methodology, the way he went through it, you generally agree or disagree with?
A: Oh, I generally agree with the methodology.
Q: Okay. His final value as he does it, he did it as part of the financial feasibility element of the highest and best use test?

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A: Uh-huh (affirmative response).
Q: Do you remember the value he came up with, $13.8 million, does that sound right?
A: Yeah, that's about -- around $13.8 million.
Q: All right. Have you analyzed the numbers he used?
A: Yes, I have.
Q: All right. Have you run an analysis using that same methodology?
A: Yes, I did.
Q: I want to make sure I understand. Your position is that methodology is appropriate?
A: The methodology is correct and that's a -- and it's -- it is widely recognized. You know, even back in 1981, appraisers should have known how to do it. And appraisers do know how to do it. I have no doubt that they know how to do it.
Q: In this case, you don't think it's the way to do it, because you don't think condos are the highest and best use. But if you were going to do it that way, you would do it the way Mr. James did?
A: Absolutely.
Q: And have you looked at it?

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A: Yes.
Q: All right. And he came up with a number of $13.8 million. Have you looked at it to try to come up with a number?
A: Yeah, just based on his analysis, and I used all of his numbers. I didn't quibble with the numbers except for a few things that, in private practice and as a practical matter, we would have increased in order to get a reasonable conclusion to the -- you know, to the analysis that we would -- if we were doing it for a bank.
Q: All right. When you run the numbers, what do you come up with?
A: About $1,200,000.
Q: And that $11,200,000 number, does that take into consideration all the factors? Is that the discounted, sellout value, the present use, all that kind of stuff?
A: There were a couple of expenses that I have looked at that I was questioning. And I think, in the last year, they left out a lot of expenses. And I sort of questioned leaving out expenses in the last year because you have expenses until the last day the condominiums

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are sold. And I didn't even put a number in for that, but, you know, I came up with a little bit -- you know, a little bit lower value.

Q: Your analysis, though, of his numbers, you never - you didn't question his starting valuations for the units, correct?

A: No.

Q: So, if his unit values where he starts are based on comparables that are high, say from Daniel Island, you don't even factor that into this analysis, do you?

A: No.

Q: You haven't done an examination of the starting values, your analysis is of the deductions over time, is that a fair --

A: You know, all of my analyses have been based on the -- just the numbers they had, just for simplicity, not because I can't do it. It's just simpler to, you know -- to look at the issue and look at the methodology and say, well, okay, let's see what it really ought to be if we do it the appropriate way that the Appraisal Institute would recognize and that the Appraisal Standard Board would recognize as

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the way. The fee appraiser, Frank Headley, or my boss, Marshall Dodds, that's the way we would do it. And the county doesn't really seem to want to do it that way, although they did do it -- they didn't do it in our first encounter, but they brought it into the equation in this -- in this situation. For whatever reason, they did bring it in, so we looked at, you know, how they did it and so forth and so on and --

Q: All right. Stop.

A: Yeah.

Q: You did not examine his comparables? You took them on -- you didn't even add them up?

A: No.

Q: If they're too high, then you've started too high?

A: Then I've started too high.

Q: Are you familiar with the market on Daniel Island?

A: Yes, I am.

Q: If comps were used from Daniel Island, would you say those are good comps for The Legends?

A: I would say that The Legends is a little bit lesser quality than Daniel Island. Daniel

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Island is sort of a really, really first-class place. I mean, it's -- it's probably the premier place to live in South Carolina. Now, I'm not knocking Mount Pleasant.

Q: South of Broad people would probably argue with you on that one, but --

A: I'm not knocking Mount Pleasant, trust me. Mount Pleasant's a great city, too. But if I looked at the amenities on Daniel Island, if you just drive into Daniel Landing, you get a feeling of being, you know, on a plantation somewhere because you drive down this oak street and, I mean, you know, I can't blame anybody for renting on Daniel Island or for buying on Daniel Island. But I would say, overall, Daniel Island's got to be a superior. I mean, you know, if you look at the homes in the area in the immediate proximity to that. If you look at the latest apartment complex that was built on Daniel Island, which we appraised with rents in the $1,500 to $2,000 range, you know, it's pretty -- it's a pretty, pretty nice -- a pretty nice place.

Q: And would the niceness of Daniel Island be reflected in the per square foot prices of the

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condominium sales?

A: I would -- I would think so. I would think --

Q: You would expect them to be -

A: Yeah, I would expect them to be.

Q: - much higher?

A: Well, somewhat higher, you know. Maybe much. Maybe much is too big a word, but, you know, I would expect -- I would expect to use a little bit of negative, if I were looking at it from an appraisal standpoint, I would probably put a minus something for that location. Now --

Q: All right. Now, you're talk -

A: Go ahead.

Q: We've talked about Mr. James's methodology, the conclusion he came to as a part of his financial feasibility analysis.

A: Uh-huh (affirmative response).

Q: We came to a number, $13.8 million. You ran it using his starting numbers and you reached a valuation of $11.2 million?

A: That's correct.

Q: Now, you know that what the county did in this case is they then said, we're going to value the 121 units separately and they put separate values on each one. You're familiar with that?

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A: Yes.
Q: All right. Is that appropriate?
A: It is a starting point. But no, it's not appropriate. It is the starting point.
Q: What does that mean?
A: The starting point means exactly what Mr. James did. He started with the number, the value or their value of the individual units. Then he looked at it over, I think it was a three -- a four year sellout and -- pardon me, no, it was a three year sellout, based on looking at the market in -- at the end of 2003. It appeared to be a good market. And he ran his numbers and then he discounted those numbers and he came up with about $13,700,000, $13,800,000, right around that -- right in that range. I may have a little bit of rounding, but, just to make sure, when I look at something like that, I throw their numbers into my spreadsheet. And that's the first thing I do just so somebody can't say, well, have you got something goofy going on in that spreadsheet that, you know, makes it -- makes it not reliable. So I just want to make sure that everybody would have a chance if they want to look at it.

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Q: All right. We have discussed Mr. James's methodology.
A: Yes, we have.
Q: How he did it; you looked at how he did it; you did it, also, that way. Now --
A: That is correct.
Q: We're on a new topic. The new topic is Angela Sawadske's individual valuations of these units. Do you understand that the final position from the county, the way the county is presenting this today, yesterday, and before the Board Assessment Appeals back in the fall, is these units should be separately valued, and that's what Ms. Sawadske did?
A: That's correct.
Q: All right. Is that appropriate?
A: It's appropriate as far as it goes. It's appropriate to value my house as an individual house. But if I own 121 condominium units, we're into a different type of analysis and this is what -- well, this is what we do. This is what we have to do if we appraise a condominium project or subdivision. They both work kind of the same. If I came - let's put it this way: If I came into the bank and I

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said, Ms. Sawadske, just appraise all of my condominium units at $16,000,000, would you loan me 80 percent of $16,000,000; and if the bank said, sure, I would have borrowed more than I should have borrowed; the bank would be in an over loaned position, because the factors are not taken into consideration. Now, what do we -- what do we have, we were looking at it. If we look at the reports, we have a retail value of all these things. So, now, if the bank got them back, you reckon they would be able to sell them for maybe not even 80 percent. We've got cases, now, where, you know, 50 cents on the dollar is a good deal on some of this stuff. The problem and the reason for the methodology is that a lot of folks over the years have gone in, done an appraisal of the single unit, single condominium unit, or one of each type, added them up, and gone to the bank. This was prevalent in the '80's. Gone to the bank, borrowed the money and then found themselves in a situation where they couldn't pay it back.
Q: All right. Ms. Sawadske --
A: Uh-huh (affirmative response).

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Q: You're saying her individual valuations are okay as a starting point?
A: As the starting point for 121 units. I don't have a problem with her methodology, there.
Q: Are there any industry standards applicable to appraisers --
A: Yeah.
Q: -- that say, that's okay as a starting point, but you can't leave it right there?
A: That's right. I have to live by those standards.
Q: All right. Is there a standard applicable in this case?
A: Standards of -- in my opinion, Your Honor, the standard is applicable in this case, although the county doesn't recognize it.
Q: Does the county -- you say they don't recognize it. They already have it in their --
A: Oh, yeah, they did recognize it, didn't they?
Q: Yeah. So the standard they recognize in their report, what is the standard?
A: Standard is -- you want me to read it?
Q: Sure.
A: This is from the Appraisal of Real Estate, 13th Edition, by the Appraisal Institute. It's

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updated every few years. This is the latest. I did check the previous edition and the same standard applies. To value condominium units, residential, office, industrial, or other property types, appraisers generally use the sales comparison approach. Recent sales of units of comparable size, location and quality are best indicators of value. The income capitalization approach may also be applicable if some condominium units are rented rather than occupied by the owners. For example, a leased office condominium unit could be valued by the income capitalization approach using traditional techniques, similar to how we appraise the apartments. The cost approach is usually not applicable in the appraisal of this type of condominium unit because it is difficult to estimate site value and contributory value of common elements. Now, here we get to the issue. To value an entire condominium projects -- and I'm making the interpretation that, if you own 121 units and you can't sell them, you've got some kind of project, unless you live in one every night. I mean, you know, it is a complex. You have

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two choices, you rent them or you sell them. To value entire condominium projects, whether they are newly constructed buildings or conversions, appraisers typically use the sales comparison approach to establish individual unit prices and apply discounted cash flow analysis to value the whole project. Using the later technique, the amount and timing of all capital outlays, expected monetary receipts, and returns are estimated. And these amounts are discounted at a rate consistent with competitive investment yields, but that's basically a risk factor. The estimates of future sellout prices and the timing of sales are key elements in the valuation. Also, similar data may be used in both applications. The valuation of individual condominium units is distinct from the valuation of an entire condominium project. The aggregate of individual unit values does not reflect the market value of the overall project. As the aggregate sum does not reflect carrying or holding costs, marketing expense, or the timing of cash flows, it is improper to represent the sum of the individual unit values as the market

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value of the entire condominium project. Likewise, individual units are not valued by appraising the entirety and then allocating the total value to individual units. Each assignment has separate and distinct considerations.

Q: All right. So Ms. Sawadske's individual appraisals, they are the starting point. If we assume her numbers are right, what do you do to them after you have the starting numbers?

A: Well, we do, you know, what the county did in their appraisal consultation assignment, which -- in which they came up with values, but said they weren't values. In other words, they came up with a value of the apartment complex and a value of the condominium complex using a discounting process. And their conclusion, based on a couple of things that I don't agree with, but their conclusion was that no matter whether you sell anything or not, the highest and best use was condominiums. And I don't think we've taken into consideration the fact that, despite efforts of trying to sell the condominium units, the owner has had to rent the condominium units, and they are, in fact,

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rental apartments at this point in time, even though we have a legal thing on them that says, gee, you're a condominium.

Q: So, to use the county's individual appraisal numbers, you would have to plug them in as the starting spot for an analysis that results in a fair market value for the 121 units?

A: That is correct. And that is what they have done, although they said they didn't do it.

Q: They didn't do it on Ms. Sawadske's numbers, did they?

A: You know, those numbers have changed two or three times. I don't even know. I have something on my computer in that bag that, you know, that every time they've done some valuation, they've lowered the numbers a little bit. And I'm not sure which numbers we've got.

Q: All right. Your report, Respondent's Exhibit - Your Honor, I apologize. What's his report number?

THE COURT: It's Ten.

Q: Respondent's Exhibit Ten, you've identify that, we've gone through it. I move to admit it into evidence.

MR. DAWSON: No objections, Your Honor.

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THE COURT: Okay, it's admitted. Thank you.
(Respondent's Exhibit Number Ten was admitted into evidence.)
MR. RODGERS: Those are my questions, Your Honor.
THE COURT: Mr. Dawson.
MR. DAWSON: Thank you, Your Honor.
MR. HEADLEY - CROSS-EXAMINATION BY MR. DAWSON:
Q: Mr. Headley, I'm going to attempt to start our cross-examination on what we agree upon and then we'll try get to the things we don't agree on. So, if I understand your testimony correctly, you agree with the work that Angela did?
A: More or less.
Q: That's fine, I'll let you qualify it any way you want. And you've had a chance to review Mr. Everman's report and, generally speaking, you guys were looking at apartment complexes?
A: I believe he looked at apartment complexes and he also looked -- he also did a discounted cash flow analysis, if I'm not mistaken.
Q: Okay.
A: In fact, I'm pretty sure that he used the discounting methodology for determining his highest and best use.

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Q: Okay. Then you had a chance to look at Mr. James's report and, based on your testimony, although you might have tweaked some numbers in a few places, you agree with his methodology on the discounted cash flow analysis, correct?
A: For estimating the market value of the 121 units.
Q: Okay. All right. So, generally speaking, you've read their reports, you've seen their numbers and granted, if you had done it yourself, you might have come up with different numbers, for instance, $11.2 million versus his $13.8, correct?
A: Based on my market - my analysis of the market, yes, sir.
Q: Okay. Now, your assignment in this case, based on your report --
A: Uh-huh (affirmative response).
Q: And I'll read it. It says, intended use and users, it says, the intended use of this appraisal report is for property tax value appealed by the owner to reduce the tax value set by the county assessor. So you were hired to reduce the tax value, right?
A: No, that's what he wanted to do.

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Q: Okay.
A: I was hired to produce an appraisal report.
Q: Okay. Well, I'm just reading your words that you sent back to him.
A: Well, that's what his - the -- I was - let me make a distinction. I cannot be an advocate for Mr. Follmann.
Q: Right.
A: Okay, that is the distinction. Attorneys can be advocates. Unfortunately, we can't. And attorneys make the big money and we just get whatever we get.
Q: And you get harassed for a few minutes in Court.
A: That doesn't matter.
Q: Well, I just want to make sure I understand what your assignment was. I understand your professional standards don't require you -- or allow you to be an advocate, but I'm just simply reading the report that was introduced into evidence.
A: Well, that was the intended use of -- for Mr. Follmann. I'm not involved except as a third-party appraiser. This is his property and his intention to do with the appraisal report as it

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goes.
Q: Okay. All right. And when you were hired by Mr. Follmann, in his assignment to you, did he ask you not to look at them as individual units, but to look at the 121 units as a whole?
A: He didn't ask me, I told him how to do it.
Q: Okay. And so you told him, I can't look at these 121 units because of your single ownership, but I have to look at them as units, correct?
A: I'd have to look at them as a condominium project because -
Q: Okay.
A: - by definition, the 121 units has got to be some kind of project.
Q: Okay. But you agree with me, the actual project is 200 units, correct?
A: I know, yes, the actual project is 200 units.
Q: So, in essence, you weren't looking at the condominium project as a whole or as a complex, you were looking at the condominiums as a part of a complex, correct?
A: Owned by a single owner and that's a big distinction.
Q: I would agree with you, a big distinction. But

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I want to make sure we are talking from a common ground for perspective, because you read out of the 13th edition of the appraisal report and you said that the county assessor isn't doing it right because they're looking at it as individual units and you read language that talked about valuing the entire condominium project as the correct methodology to value the property, but, in essence, in this case, you did not value the entire project, correct?

A: Yeah, their units have been sold. They were owned by separate individuals, to my knowledge, either owner-occupants or people who had one or two rental units. I didn't check the roll, but, you know, that was not my job. My job was to look at how, ethically, do I appraise a 121 units owned by one entity. And it's very clear here. It doesn't say -- it doesn't mean you have to - it has to be an entire project. What it actually means is, if you've got 121 units, you've got to have it -- you need a different standard. The county is not doing it that way and, you know, that's probably what a lot of this is about, right now.

Q: But you agree with me, that's your

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interpretation of those words, because the words do not parse with taking out components based on ownership; it simply says to look at the entire project, correct? I'm just asking what the words say. I understand your interpretation.

A: Okay. You can parse those words any way you want to or say those words any way you want to, but, you know, let's get down to what they mean. What do you think they mean? Do you think they mean that a 121 units ought to be appraised as a single entity?

Q: You talked about Daniel Island.

A: Yeah.

Q: A beautiful island.

A: Right.

Q: But that island is in fact in the City of Charleston in Berkeley County, correct?

A: Correct.

Q: Okay. And in your report, and I'll refer to it, page 40, you talk about, in market overview, based on subject market area, is that correct?

A: Yeah.

Q: Okay. And I realize the table reflects

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vacancies, but I want to draw your attention to something that's been hotly contested in this case thus far. And that is looking at properties that are, and we use the term out of the zip code. I don't think that's necessarily important for this discussion, but, since you flagged Daniel Island as being different and highly desirable, in your report, in looking at the subject market area, you acknowledged that Daniel Island and Daniel Landing is in the subject area, correct?

A: Let me explain why that's there.

Q: Before you do that, and I always want your explanation, but I do want you to answer my question, first. Then you can continue --

A: Yeah, I will. And if you would like an explanation, I'd be glad to give it to you.

Q: I think the Court would always want you to explain your answer after you've affirmatively stated, yes, you did include Daniel Landing in your subject market area.

A: Daniel Landing is across the bridge. Daniel Landing and Daniel Island are in the Carolinas Real Data Survey as part of the Mount Pleasant area. That wasn't my deal, that was Carolinas

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Real Data. It could have been an area by itself, but they chose to put it there for whatever reason expediently. So, when I put Mount Pleasant, I'm referring to Carolinas Real Data Survey headings at the time because they survey apartment properties on a every six month basis.

Q: Okay. So, according to your report, subject market area includes Daniel Landing, and you've acknowledged that we agreed early on that you had a chance to review Angela's report, and you acknowledge in Angela's report, she includes comps in your same subject market area, correct?

A: Well, whatever you think, yeah. I mean, if you want it to be that way it can be that way.

Q: Okay, good. And so we have Daniel Island in the subject market area, Daniel Landing, specifically, within your analysis for which you acknowledge that her comps are good comps; your testimony, correct?

A: I have no problem with her comps. I have -- you know, the issue is always, when you're dealing with comparables, the issue is how you adjust them. There are good areas of Mount

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Pleasant and there are not so good areas of Mount Pleasant. Most of Mount Pleasant is very good, but I'm sure there are some areas in there that are not all that good. So, as an appraiser, you would have to make an adjustment. If you say, well, listen, the one in Daniel Island is a little superior here, this one over here is inferior, you know, whatever, whatever you have to do, and the adjustments are very important and it's part of her work. Now, as a practical matter, we just went -- we went ahead and we used those county numbers because the point is, we're dealing with a single entity and a single -- a single purchaser or a single owner that can't sell the properties as condominiums.

Q: Let me transition a little bit, because we've obviously spent some time talking about the mortgage and the prepayment prohibition and prepayment penalty. In your report, on page 41 --

A: Uh-huh (affirmative response).

Q: -- you assumed that, because there was this prepayment prohibition and prepayment penalty, in conducting a highest best use analysis, it

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could not pass the legality permissible test because of the mortgage document, is that correct?

A: That's my opinion, yes.

Q: Okay. Let's assume, hypothetically, and I believe -

A: And there is another provision in there, also.

Q: Okay. Let's assume, hypothetically, for a second, though. And I think Mr. Rodgers did the same thing. Let's assume that that provision didn't exist, okay. You would have, without any other legally permissible barrier in place, such as zoning, deed restrictions or other types, you would have then assumed that it had passed the legally permissible test, correct; and then determined if it had passed the other parts of the test, correct?

A: I would - I would have assumed it had, had it happened. But let me give you a caveat, markets. Markets go up, markets go down. The 2003, the condominium conversion craze hit Charleston and everything went up and it stopped about as fast as it went up, so, you know, everything's timing. If the timing had been right in 2003, we probably wouldn't be

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sitting here.

Q: Obviously, not as successful in my hypothetic as Mr. Rodgers, so I'm going to try it again. I want you to assume for a second that we did not have the barrier that you have indicated based on mortgage. I'm not going to quibble on the language just yet. We'll get to that. I want to assume the language is not there, okay, because that is the basis in your report for saying it did not pass the legally permissible test because it could not occur and, therefore, the highest best use could not be a condo, according to your report. On page 40 and 41, and I'll be happy to read it to you if you like.

A: Okay.

Q: But I want to get past the --

A: Right.

Q: -- two or three sentences on page 41 that prevented you, professionally, from moving forward because you believe it did not pass that test.

A: Well, let's put it this way. If I had to assume that, okay, first of all; I would have to assume that that impediment was not there.

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Q: Correct.

A: But it was. I can't really assume that it was not there because it was. And that -- I think I would be in a very gray area if I made an assumption that couldn't happen at that point in time. We're dealing with points in time here. Time. Time when things go good and there are times to buy GM stocks and times not to buy GM stocks, if you understand what I'm saying. Things go up, things go down. And in 2003, the Follmanns couldn't do it. It would be hypothetical just to say, hey, they could do that in 2003. We wouldn't be here, now.

Q: Okay.

A: So I'm not -- you know, I can't ethically go into that. I don't believe I'm -- I can ethically go into that. I'm sorry.

Q: Well, I'm going to help you go where you can ethically go.

A: Okay, please.

Q: We're going to fast forward to 2007.

A: Okay.

Q: Because in 2007, you don't have that barrier, correct? So, when we talk hypotheticals, we'll talk reality.

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A: Let's talk reality.
Q: Okay. Reality, in 2007, there was no legally permissible barrier to converting this property to condos, is that correct?
A: Well, actually, in 2006 is when it was converted.
Q: All right.
A: And in 2007, there was no barrier, but it was converted in 2006.
Q: So you would agree with me, then, that it is possible that the highest and best use of that property in 2007 is as a condo or condo units, correct?
A: Not in 2007.
Q: Not in 2007?
A: Not in 2007.
Q: Why is it not possible in 2007?
A: Well, let me tell you what happened. The condo market went sort of like this (indicating) and then about 2006, nobody really - when they converted the condos, nobody really paid any attention and they thought the craze would go on forever. So Mr. Follmann's 200 units; River Oaks, in 2003, converted 360 units; Sabal Palms converted 300 units to condominiums. Mr.

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Follmann was lucky enough to sell 47 units up to about 50-some units over the next few months, over the next, I guess it was about 8 or 9 months, and then everything stopped. Now, when you look at highest and best use, you have to look at -- and they did an analysis of 2007. And their analysis of 2007, I believe in that report, somewhere it says, no problem everything was -- everything was great, and highest and best use is condominiums. Now, the fact of the matter is, Mr Follmann quit selling in 2007 because he only had a few sales in 2007. River Oaks emptied out about half of their tenants, that was 360 units, very good location, located on the river as you go across the bridge, Your Honor, into Mount Pleasant. If you go across the bridge on 526, it's that complex that sits right there, beautiful place, beautiful view. Anyway, that particular complex had to go back to apartments and start filling their units up again as apartments. I would say that would be a good indication that the market was going south in 2007. And then we take the case of Sabal Palms, which did the same thing. It converted and had the big show

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and cake and cookies and all that stuff and nobody came, so they went back to being apartments. Mr. Follmann sold a few units and then, to my knowledge, I think he sold one unit in the next 18 months. And I don't think they've sold anything since. So could I conclude that you are to go out and do a condominium project? Let's say you were my client and you came in and you said, hey, how about check this market out, because I do that sort of thing; I've done it down there. The market went south. I would have to say, I'm sorry, sir, I won't even take your money because everything is - everything pretty much is an indicator, where you've got 900 or 800 and some units, almost 900 units that go on the market and can't sell, then you've got a serious problem. So you can't say that highest and best use is condominiums. If you can't sell them, they're condominiums in name only. They are rental apartments as far as I'm concerned and that's the only way you could -- I could treat them. I would have to do an income analysis on them. And then I'd have to look at -- if I were doing condominiums, I

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would have to say, okay, how long is it going to take to sell this thing or all these units. I think we've come up with a conclusion, being that they sold one unit in 18 months, that we've got a serious problem. Condominium conversions are designed to be sold and sold out quickly. That's the way most of them worked. And if they don't sell out quickly, you've got a serious problem. If I knew that it was going to take three or four years to sell one out, I don't think I could advise you to do it, because a lot of things can happen in a three or four year period of time. In other words, in 2003, they couldn't do it; in 2006, they could and did; and in 2007, it was all -- about all over. And the condominium market -- and I know the assessor's office knows all about what's happened in the condominium market. See, we've been trying to play with this, well, let's look at 2003. Well, he couldn't do it in 2003. I would love to look at 2003, too. I wish he had done it in 2003. He might have had a successful conversion. But I can't call it a successful situation as the Charleston report -- attorney's -- assessor's

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report show that, hey, the market was rosy and we can get a four year sellout or a three year sellout and every thing's great and we can do all this. And as a practical matter, when the -- when the gentleman went to convert it, the market was going downhill, only he didn't recognize it and he was not alone in not recognizing it. So that's -- you know, that's about what I've got to say about that.

Q: I appreciate all your information. I'm going to ask my question, though, and I'd love a yes or no. And then, once again, if you would like to explain, again, I'll be happy to accept it. All I asked you was whether it was legally possible in 2007.

A: Sure.

Q: Okay. And since it was legally possible in 2007, could -- don't want to talk about whether or not it was financially feasible, I understand there's a whole analysis that goes into it. I'm just simply asking you, could there have been --

A: In 2007?

Q: -- as highest and best --

A: Certainly.

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Q: Good. That's all I'm asking you, whether it was or wasn't yet.

A: That's -- that's like a frog jumping, okay.

Q: Well, let's go where you --

A: Let me -- let me just tell you.

Q: All right.

A: If I have evidence in my file that it couldn't be done, I'm not going to say it could be done.

Q: Okay.

A: Because the assessor's office has already said, oh, yeah, it's fine. Well, that's wrong. I'm sorry, you know, I like those folks over there. I don't have any -- you know, I just -- I just get paid to, you know, to analysis the market. The market was not good in 2007, nor was it good in 2008, nor was it good in 2009, nor is it good today as far as condominiums are concerned.

Q: Let's see if we can get traction on 2006, since you've at least --

A: Okay.

Q: -- acknowledged with me that, in 2006, it was a good market. Or you're not even acknowledging, in 2006, it was a good market?

A: In 2006, we didn't recognize the fact that it

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was going downhill.

Q: Okay. So --

A: I mean, I personally didn't recognize the fact that it was going downhill, so I'm going to tell you my personal opinion.

Q: All right. So it's your --

A: And I did a lot work down there, so, when we started getting into 2007, appraisers, I would call on and we'd share data and so forth. They would say boy, the condominium market, really (indicating) gone.

Q: Okay.

A: Now, in early 2006, I might have been excited as you were about asking me that question. In 2007, when reality was setting in, I couldn't say it was feasible. I mean, you know, I think the gentleman made a mistake by converting it, okay.

Q: I appreciate that. So then, you also believe that the banks made a mistake in him lending money, based on the HPR conversion in '06 and the loans he got in the '07, because it wasn't the highest and best use to convert those to condos at that time?

A: In my opinion, it wasn't.

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Q: Okay. But --

A: But, I mean, in 2006, in all due respect, someone may not have recognized it. But I wasn't the person who was involved in 2006.

Q: So Mr. Follmann made a bad business decision in those years, because its highest and best use, according to your opinion, was apartments, and it never should have changed?

A: I wouldn't have changed. I wouldn't have recommended changing. If you had asked me in 2006 and I went down and started doing a study, I would have checked out what River Oaks was doing, what Sabal Palms was doing. I probably would have found out that it's iffy at best.

Q: Right.

A: And iffy at best, you know, I don't know who did the work or what, but appraisers are just human beings is all. We -- we're good at hindsight sometimes.

Q: Right. I appreciate the hindsight, we're going to talk a little bit about it. You would agree with me, then, that the issue in this case is not his tax on his property in 2003, correct? In other words, he's not challenging his tax bill in 2003, is that correct?

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A: No.
Q: And he's not.
A: I think he did, but, you know, that's over with.
Q: Well, in this case; just in this case?
A: Not in this case.
Q: Okay. I'm going to try to stay in the middle of the road here for a little bit. You would agree with me, then, in 2004, he's not challenging the tax bill he received and paid, correct?
A: I --
Q: In this case?
A: In this case, I'd say not.
Q: Okay.
A: I mean, I don't know that for a fact. But, I mean, he's back there if you want to ask him those questions, but --
Q: Yes, sir.
A: I'm not challenging.
Q: I'm trying to see where we can agree so then we can talk about where we don't disagree. So I want to make sure I get the agreements in place. The same thing in 2005, there is no issue in this case, based on your testimony,

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about the tax bill and assessment he received in 2005, correct?
A: Far as I know, it was not - it was apartments. He may have had an issue. I -- I didn't -- I wasn't involved.
THE COURT: Mr. Headley, just answer the questions to the best of your knowledge.
A: Okay.
THE COURT: And that might cut down on a little bit of the commentary.
A: Thank you.
THE COURT: Thanks.
Q: Okay. So it's your understanding that LMP Properties converted the property that was formerly an apartment complex to condos in 2006, correct?
A: Yes.
Q: Okay. You have testified today that you have worked with county assessors in the larger counties in South Carolina, correct?
A: Yes.
Q: And that you have worked with and testified about valuation challenges with regard to ad valorem property taxation, correct?
A: Yes.

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Q: Okay. In your prior experience testifying on ad valorem property tax valuation, isn't it true that we do not go back in time to determine and send a corrected tax bill to a taxpayer, when, in 2007, his property changed and we're going to 2003 to determine what the value was? In other words, we're not trying to change his value in 2003, is that not true?
A: You're not, that's correct.
Q: Okay. So we agree we're not trying to change his value in 2003, not trying to change it in 2004. What we're attempting to do is determine his value for tax purposes for 2007 forward, is that not true?
A: Oh, yeah.
Q: Okay. It's not a trick question. I appreciate you doing that for me.
A: No, that's fine. I'm fine.
Q: Now, I may start getting a little tricky, so I want you to pay attention.
A: No, I'm - listen, I've been tricked before. Don't worry about it. You wouldn't be the first.
Q: In your practice, you have to be familiar with professional standards and the laws of South

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Carolina that regulate how assessors value property, correct?
A: Sure.
Q: Okay. Isn't it true, in those counties you've worked with previously, that those assessors for whatever year in question that the appeal is addressing, have to go back to the reassessment year to determine what the value of the property is in the future for tax purposes?
A: They do that, yes.
Q: Okay. Isn't it true in this case that the county assessor's office -- forgetting about whether we agree on the methodology for a second, I want to see if we can agree on what they did, not how they did it. Isn't it true in this case the assessor did not say whether the taxpayer could use the property in a way that we are describing, given the prepayment penalty in 2003, because this did not exist in 2007, we agree, prepayment penalty did not exist in '07; but that the assessor went to 2003 to determine what values were at that time, is that not true?
A: Yes.

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Q: Okay. Is it not true that the assessor did not look to determine if the property taxpayer could have condos in 2003?
A: He did not.
Q: Okay. All right. So, when the assessor -- forgetting about methodology, we're getting to that in a second. When the assessor went to value the property, she looked at what similarly situated properties to include your same service for market area were selling condos for in 2003 to arrive at a value for the taxpayer's property in 2007 for his 2008 taxes, is that not true?
A: It's not the service I'm referring to. It would be probably the multiple listing service or their records. They have all the sales.
Q: Okay. If, in fact, we're not debating or discussing whether or not the taxpayer could have went condo in 2003, wouldn't you agree with me that this mortgage prepayment and prohibition clause does not have any relevance in this case?
A: No.
Q: If -- thank you. Thank you. Okay. I won't labor on that one anymore. I appreciate your

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answer. All right. Let's talk about the methodology used by the Assessor's office for a second.
A: Uh-huh (affirmative response).
Q: We're in 2007.
A: Right.
Q: We agree in 2006 the mortgaged prepayment clause is not, according to your testimony -- we disagree on what the words means but that's immaterial. At that time, that provision, according to your testimony, would not prevent the assessor's office in using a highest and best use analysis to fail at the legally permissible test. Of course, we've got one problem.
A: Of course. You could convert it to anything you wanted to. It would be then legally permissible.
Q: Okay. So we don't fail there, okay. You said you had an opportunity to look at Gary James's consulting report. Do you agree with Gary that in 2007, this particular property could, it was possible, only possible -- I understand your disagreement on the feasibility of it, but is it possible that it could have passed the four-

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part test for a condo as a highest and best use, only possible?
A: In 2007, I would have had to say no.
Q: Okay. That's fair. 2006, would you still say no?
A: 2006, I said it was iffy. I was not -- and let me rephrase -- let me not rephrase what I said, let me say what I said. I believe I said there were a lot of us that did not recognize, including major developers and Mr. Follmann, in 2006, early 2006, that the market for the condominium conversations was about gone. And what we knew in 2007, early 2007 until later 2007, even if we looked at Carolinas Real Data, we would have seen that -- or we'd checked those condo conversations, we would have found out very easily that they were starting back to renting apartments because they didn't have enough sales to close them out.
Q: Let's turn to page 59 in your report.
A: Okay.
Q: You did a discounted sellout analysis, correct?
A: That is correct.
Q: What was the purpose of that analysis?
A: The purpose of that analysis was to estimate

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market value.
Q: Okay. So, in your estimation of market value, did you include rental income?
A: No, because -- and let me give you a scenario. We could if you want me to, but let me give you a scenario. When we look at condominium projects, the major -- the major focus of the developer, and we've saw this in Charleston, there's plenty of evidence for it, was to get the tenants out as fast as they legally could. Their rights are protected by I believe state law and federal law, that you have to give them opportunities to purchase, you have to give them opportunities to stay there as long as their lease is. But by and large, to convert a condominium, you would start getting tenants out as quickly as you can and that was the case in River Oaks and that was the case in Sabal Palms.
Q: So you didn't include rental income in your analysis, although he was collecting rents based on your ten year period sellout or was it -- excuse me. It's a eight year period sellout, is that correct?
A: He would have been collecting some rent. But see, that, the discounted sellout was basically

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a feasibility analysis of the project. If somebody had an eight year sellout, okay, or seven year or six year, would you convert it to condominiums? The answer is no, you wouldn't.
Q: However, there would have been an income stream correct? And that income stream would have been rents, correct?
A: Yeah, it could have been an income stream, yes, but most of it would -- a lot of it would have been taken up with expenses and so forth and so on, because you had fewer units to draw from.
Q: But your report on page 9 does not reflect that rental income.
A: We typically do not because of the way the developers handle it.
Q: You also didn't include HOA expenses, correct?
A: No. We did include expenses, however, management and overhead.
Q: And you claim --
A: We're making the assumption, like y'all are making, that this is a condominium complex. So how much rent are we going to get in a condominium complex? Really, the feasibility and we're looking at the simple fact that they weren't selling. They haven't sold a unit to my

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knowledge in two years. Maybe one. They've sold one unit in two years. So I'm looking at this thing and I know the market in 2007 was bad. How am I going to conclude that this is a condominium project, you know. I'm just saying, nobody would go into that project; nobody would go into that project with what we knew then and convert it to condominiums, and we're talking about 2007, okay.
Q: Give me one second, please.
MR. DAWSON: Your Honor, no further questions. Thank you.
MR. RODGERS: I don't have any more questions.
THE COURT: Okay. Thank you, Mr. Headley.
MR. HEADLEY: Thank you very much.
THE COURT: Mr. Rodgers, do you have any other witnesses?
MR. RODGERS: One more, Your Honor.
THE COURT: You've got one more witness, okay. And do you all need to present anything in response to the Respondent's case?
MR. DAWSON: Your Honor, we may. I would love to hear what his final witness has to say. And we may be able to condense that considerably. I would love a few minutes to talk to co-counsel

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before I make that decision.
THE COURT: Okay. Is it a lengthy witness? Mr. Headley, you may step down.
THE WITNESS: May I be excused?
MR. DAWSON: Your Honor, I don't have an issue.
THE COURT: Okay. The parties don't object. You may be excused.
MR. HEADLEY: Thank you, Your Honor.
THE COURT: Thank you, Mr. Headley, for coming. Mr. Rodgers, is it Ms. Follmann that you intend to call as your second witness?
MR. RODGERS: Your Honor, I want to call the Assessor, Toy Glennon.
THE COURT: Oh, the Assessor, okay.
MR. RODGERS: Are we ready to go --
THE COURT: Let's do this. Let's break, because it's ten minutes to one, so why don't we take a break and then you can call your final witness and we can proceed from there.
MR. RODGERS: Your Honor, are you going to allow us closing arguments?
THE COURT: Of course. Let's reconvene at 2:00.
(A break was taken from 12:48 p.m. until 2:07 p.m.)
THE COURT: Okay. We're back on the record. Mr. Rodgers.

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MR. RODGERS: Your Honor, the Respondent calls Toy Glennon.
TOY S. GLENNON, having been duly sworn, deposed and testified as follows:
MS. GLENNON - DIRECT EXAMINATION BY MR. RODGERS:
Q: Good afternoon. You are the Charleston County Assessor?
A: Yes, sir, I am.
Q: You have been since when?
A: July 1st of 2007, so three years.
Q: How long have you worked in the assessor's office?
A: I started working for the Charleston County Assessor's Office July 1st, 1996.
Q: How are apartment complexes typically valued?
A: In the Assessor's office?
Q: Yes.
A: Apartment complexes in Charleston County are typically valued on direct capitalization. You have heard a lot of testimony about that, projected gross income, effective gross income, which is less vacancy, net operating income, and the capitalization rates. Typically, we use the income approach to value to value them.
Q: And that income approach, the simple formula for

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that that we have discussed today and we discussed yesterday is net operating income divided by cap rate?
A: Yes, sir, it is.
Q: Are there condominium complexes in Charleston County that are valued by your office as if they were apartment complexes?
A: Yes, sir, there are, given analysis of the individual circumstances.
Q: Okay. For example, Sabal Palms I believe is a 300 unit condominium complex, correct?
A: It is a 300 unit condominium complex, correct.
Q: Is it valued as an apartment complex?
A: It is valued as an apartment complex. The facts of that particular property differ from the facts of The Legends, in that Sabal Palms has never sold a single unit. They are 100 percent owned by one person. They did market the units very briefly for about a period of five weeks. When we discussed the valuation issue with them, they had filed an appeal. And they had indicated to us they were going to waive, which would mean abandon, the horizontal property regime that had been filed, which is allowable under the horizontal property regime statutes,

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and they have indeed done so. So they have been continuously operated since the day they were built as apartments and have never ceased renting them and have never sold one single unit and are all 100 percent owned by one organization.
Q: They converted to condominiums we would have to assume because they wanted to sell condos, right?
A: I assumed they wanted to sell condominiums, yes.
Q: And after they did that, they tried to sell condominiums, they just failed?
A: They tried to sell condominiums for about five weeks.
Q: Okay. Sabal Palms was an apartment complex, it would have had a single tax map number, parcel ID number? What do you call it?
A: Parcel ID number. It was built in phases. I believe it was one parcel. It might have been two, but I believe it was one.
Q: Okay. And then, when they filed their master deed, they would have gotten, if there were 300 units, 300 individual assessment notices?
A: They would have, yes.
Q: Okay. Those individual tax bills on those

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condominium units, were they computed based on an income approach?
A: Upon appeal or upon their initial filing of an appeal in 2007. They filed their horizontal property regime documents in 12/30 -- during '06, May, roughly, April. In January, they appealed their property tax value. We had not yet appraised the individual condo complex and they brought up the same facts. They had not sold a single unit. They were not marketing them for sale. They had absolutely no intent of marketing them for sale. They had pulled all listings from the MLS after a period of five weeks and they were going to abandon their horizontal property regime. So, therefore, we used an income approach to value on the remaining units. In addition to that, they immediately began marketing the property as a whole for sale as an apartment complex. I believe it has since sold and we have been contacted over the course of a couple years by various people who are interested in buying it as an apartment complex about how it was valued and various information on the market.
Q: So the values for the Sabal Palms individual

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units were calculated on the income approach?
A: Yes, they were calculated on the income approach.
Q: All right. And the reason there are properties in Charleston County like Sabal Palms, condominiums, they get valued like apartments, is because of the Tamsburg case, isn't that right?
A: There are properties where we believe that the circumstances fit valuation as an apartment complex, basically, because the highest and best use of the properties is not necessarily to sell them as individual units. In the case of newer condominiums in Charleston County, those, say, built since 1998, there are 6,400 condominiums that were built since 1998 in Charleston County and only 300 units of those newer ones are appraised as if they were an apartment complex.
Q: The reason there are condominium units in Charleston County that get valued as if they were apartments is because of the Tamsburg case?
A: Well, it is because we believe that the highest and best use of them is not to sell them. The Tamsburg case, if you look at the factors in both the Supreme Court decision and the lower

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court decision, and if you look at, say the transcript from the Board of Assessment Appeals files that we have, what they constantly talked about was the highest and best use of the properties. There are individual properties where, due to say their location -- they might be located right next door to a trailer park, or due to the fact that they're completely surrounded by other apartment complexes -- there's one condo complex that I'm aware of where there are 750 apartment units around it, you've got this, you've got a trailer park, an apartment complex, apartment complex, an apartment complex, and another apartment complex, and a trailer park here and a trailer park here -- the likelihood of selling a unit, which is what Tamsburg talked to under those circumstances, is pretty slim.

Q: All right. You are very familiar with the Tamsburg case?

A: I have -- I would say I'm familiar with it; yes.

Q: All right. Now, in the Tamsburg case, there was an apartment complex in Mount Pleasant that had 45 units spread over a property in multiple buildings, correct?

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A: There was a townhouse development in Mount Pleasant that had 45 units on multiple lots in multiple buildings. Mr. Tamsburg and Lane, Tamsburg and Lane Company, owned 73 or 75 units and there were other owners in the area that also had townhouses as part of the same development. There were probably 150 townhouse units in total there by the late 1980s.

Q: In Tamsburg, where they began with, there would have been a single parcel having all 45 units on there?

A: Wando East was built in phases. I believe one of the first phases might have had that. It's going back that far. There was a tract, a portion was subdivided out to build literally a ten-unit apartment complex and then other portions were subdivided out in phases.

Q: And what triggered a change in how the Charleston County Assessor treated that property is when Tamsburg and Lane changed the title of the units from a single title to individual titles for townhouses, 45 separate titles?

A: They filed a plat and put in place utility improvements that created individual lots. So, at that point, there were individual lots to be

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valued. And subsequent to that, afterwards, they built buildings. So I don't know that it was a change in title. It was a change in the condition of the property wherein they filed a plat creating lots. And as the Assessor, lots have to be valued individually by statute as opposed to valuing them as a whole, but then they built the buildings.

Q: So the Charleston County Assessor would have issued individual assessment notices for the 45 units?

A: Either as lots to begin with, all depending on when they're completed, or the units, yes.

Q: And then in the Tamsburg case, the taxpayers came in and said, that's not a fair way to treat us because we, even though title has changed to 45 individual units, we continue to operate this as an apartment complex?

A: I wouldn't say they continued to operate it as an apartment complex. They built those units in '83 or '84 and, as I recall, the Tamsburg case was an '87 appeal, so they hadn't operated anything for very long and they hadn't appealed earlier, but they did come in and say the units are not marketable because they look like

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apartments, they're in the middle of a larger grouping. Again, I had said there were ultimately 150 townhouse units owned by various parties in there.

Q: Okay. And in that case, the Supreme Court said that use rather than title is the determining factor?

A: That is what they said. I don't believe that meant use because all of the documents proceeding that decision speak to highest and best use.

Q: Okay.

A: And mainly, also, use doesn't govern me in other things that I appraise. If something is being occupied as a residence, rented out, but yet it sits on Highway 17 and it is worth a million dollars as a vacant lot, I appraise it as a million dollar vacant lot. It's being occupied by Mr. Everman, who's renting it, but yet -- and so you would say it had to be valued as a residence, but it does not. I value to highest and best use.

Q: All right. In the Tamsburg case, the Supreme Court said use not title is the determining factor.

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A: I believe that is a quote from the sentence.
Q: But in your office, at least initially, title not use controls, correct?
A: Statutes require us to place property on at market value and require us to appraise each individual property at market value.
Q: If we had a 300 unit apartment complex and they filed a master deed, your office would have immediately send out individual assessment notices. You would not wait to decide to try to determine whether there had been any sales of condominiums, correct?
A: Immediately is a little bit of a misstatement. If someone files a horizontal property regime in 2003, in 2004, in the ordinary course of business, you would place each individual unit on at its each individual value. If comparable properties were selling for a $100,000, then those would each be individually valued at $100,000, so it's not immediate.
Q: Okay. That's my point. You don't wait to see whether the apartments that were converted into condos actually get sold before you change the way you assess the units?
A: Generally speaking, there have been sales, but

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no, we go because they have changed the condition of the property, they've changed the highest and best use of the property, generally speaking. Statutes allow, not only allow, but require the assessor to reappraise property when conditions change. And that's been -- Department of Revenue advisories have indicated, which we have to do pretty much what the Department of Revenue tells us, that a condition change isn't simply, say, selling a property because the market goes up or down, it is when something happens to make you have to reappraise it, and the condition change would have been the filing of the horizontal property regime.
Q: You don't wait to see whether the use of the units has actually changed?
A: Whether they have ceased renting them?
Q: Yes.
A: Or if deeded out?
Q: Whether they have stopped being used as apartments and started being used as single family residences. You don't wait on that issue, do you?
A: Generally speaking, we already know that because of the cycle of reassessment. Or I should not

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say reassessment as a cyclical five year reassessment; I should say because of when we send notices for the following year, generally speaking, that use has already changed.
Q: And your office would not tell a property owner who has multiple townhouses, like Tamsburg, or multiple condominium units that are being rented about the special Tamsburg valuation process?
A: When we appraise the property, we're required to send a notice. And people appeal and then we discuss the grounds of their appeal with them.
Q: All right. If they didn't appeal, y'all wouldn't tell them -- you wouldn't tell the condominium owner that they could potentially have their property valued as an apartment unless they appeal and ask you about it, correct?
A: No. I have no obligation to tell people to apply for legal residence, to apply for multi-lot discount, or to handle their appeal for them. You send a notice and if they believe that that is not their market value, they have a certain time period to appeal and they can appeal every year.
Q: All right. So a taxpayer in the exact same

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situation as Tamsburg is not going to get the Tamsburg treatment unless he demands it?
A: Yes, they do have to ask, which would be, generally speaking, under appeal.
Q: Okay. And yet your office has a special procedure for addressing Tamsburg situations, doesn't it?
A: I'm not clear what you mean.
Q: I'm going to hand you Exhibits Two and Three and ask you if you recognize those.
A: Yes, sir, I do.
Q: All right. They are documents generated by the Charleston County Assessor's Office?
A: Yes, they are. They are used to put codes into the computer.
Q: Okay. Did you participate in the creation of these documents?
A: Yes, sir, I did.
Q: Would every single family or multi-family property that gets assessed in Charleston County get assigned a general use code and a parcel use code?
A: Every single property that is under the jurisdiction of the Charleston County Assessor, regardless of use, is assigned a general use

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code and a parcel use class.
Q: Okay. The first page -- there are two separate pages. The first one is general use codes, that's Exhibit Two, I believe, and parcel use code is Exhibit Three. Let's look at it, the first document, Exhibit Two, general use codes. Do you see that?
A: Yes, sir.
Q: All right. In the top left, for a normal house, it would have a general use code of SFR, which stands for single family residential?
A: Yes, sir.
Q: And then on the next page, a parcel use code. The parcel use for a single family residence would be 10R residential, is that correct?
A: 10R or 95R or 10M.
Q: Okay. How about for a typical apartment complex, looking at the general use codes, with the general use code in that kind of dark shaded area, APT, would that be the general use code?
A: APT or SMA for normal apartment complexes.
Q: Okay. And then the parcel use code for a normal apartment complex on the next page would be 100?
A: Generally speaking, there are -- generally speaking, it would be 100. There are some

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apartment complexes that were built in phases, phase 1, phase 2, phase 3. And they're all under one ownership. And to allow us to find things, we might also use 102 to help -- it helps hang them together. We use that and a site 9 to help hang them together because small apartments, those that have 25 units, roughly, or less are valued somewhat differently. We tend to use a gross rent multiplier. So if someone has a 25 unit and a 25 unit and a 25 unit because of phases, we want to make sure we value it appropriately so they are also used. These codes are not used directly for valuation. They do not drive value. They simply help us locate certain kinds of properties, run edits.
Q: All right. We have looked at the general use code and the parcel use code for single family residence and apartments. How about the general use code for a typical residential condominium?
A: General use code?
Q: CMU?
A: The code, for a residential condominium, yes, sir, CMU.
Q: All right. The parcel use code 103? I'm sorry. The parcel use code for a typical single family

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residential condominium unit would be 10R?
A: Yes, sir.
Q: Okay. Now, I want to look at, on the parcel use code sheet, Code 102. Do you see that?
A: Yes, sir.
Q: TWH, that stands for townhouse?
A: Yes, sir.
Q: Apartments. How about read that.
A: "This parcel use class was prompted by an appeal known as Tamsburg. The Court decision was very specific in its reasoning when granting apartment status to individual units. Don't just code any group of townhouses or duplexes under one ownership to this parcel use class. Before using this class, read the case law. Talk to Steve Everman or one of the chief appraisers. We get appeals based on this decision. It's important to use this parcel use class use only when it is appropriate. The general use code will be TWH for these units."
Q: All right. And the next one in there is 103, condo apartments, is how it's listed under the description. It says, CTWH-APTS above, which is what we just read, correct?
A: Yes, sir.

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Q: Rarely used. Be careful when using. General use equals CNU. Did I read that right?
A: Yes, you read it right.
Q: Okay. So, if condominiums get the Tamsburg treatment, they're going to have a parcel use code of 103?
A: Generally speaking, yes.
Q: So, if we looked at the Sabal Palms assessment notices, they should have a general use code of CNU for condominiums and a parcel use code of 103 signifying that they're within the special Tamsburg designation?
A: I don't believe that assessment notices have both of those codes on them. They generally have value in tax district and appeal statutes. I could be wrong, but I don't recall seeing those use codes on an assessment notice.
Q: Okay. When someone demands Tamsburg treatment for their condominiums, you personally get involved, don't you?
A: Yes, sir.
Q: You personally got involved in this matter?
A: Are you speaking to Mr. Follmann's property?
Q: Yes.
A: Yes.

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Q: Is that typical for you to personally get involved in the appeal of an assessment valuation?
A: I've been involved in a number of them. Generally speaking, I don't unless there is some sort of an issue where people are supposed to involve me.
Q: All right. You are involved every time in a Tamsburg situation, correct?
A: Yes, sir.
Q: And you personally participated in the decision in this case to refuse to allow Tamsburg treatment for these 121 units?
A: Yes, sir.
Q: Your position was and is today that these 121 units, which have been used as apartments continuously since the time they were built, should not be valued as apartments?
A: I do not believe they should be valued as apartments, no.
Q: Even though the use of these 121 apartments hasn't changed in, what, ten years, only the title has changed, isn't that correct?
A: They were platted into a horizontal property regime, which I think you and I disagree to

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whether or not that is -- that is title. I believe it makes it a parcel. But the actual use is, they may be vacant; they may be occupied by a tenant; there are some of them that are occupied by tenants that were occupied by tenants when they were sold and they are still occupied by tenants. So the use, under your definition, has not changed, but yet, they were individually sellable. So therefore, they are appraised as condos. So I don't believe use is determinant. I believe highest and best use is determinant.
Q: The only reason they were individually sellable is because the title changed, correct?
A: The only reason they were individually sellable is because a horizontal property regime master deed was filed, which created -- which I by statute am required to create individually taxable parcels. So we just disagree -- we disagree with the term, title, and I'm not trying to belabor the point.
Q: We may disagree on that. We do not disagree, however, that the use of those units did not change, correct?
A: They were used as rental properties and they are

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still used as rental properties. But some of the individual units that have sold were used as rental properties and are still used as rental properties, but that did not stop them from selling for much higher prices than the individual unit values that Mr. Follmann would have placed on them.
Q: These 121 units, did any one of them ever get sold?
A: Not yet.
Q: Okay. They have been used as apartments continuously from the time they were built up and including today, correct?
A: Yes, they have been marketed, however, and they have been continuously marketed.
Q: All right. If a master deed had never been filed, would your office have still done a highest and best use analysis on this property?
A: At reassessment, is -- we don't reappraise property. By statute, we don't reappraise property every year. We reappraise property at reassessments or when conditions change that allow us to reappraise it. So Mr. James testified yesterday that one of the legally permissible uses at The Legends would have been

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to have built single family detached residents, but that was not a practical thing. You don't take brand new buildings and demolish them just to put up single family residences. So we don't necessarily go through a detailed financial analysis, but we do take into account highest and best use. And if he had not filed a horizontal property regime, there would have been nothing to have triggered us to look at it again until the next reassessment.
Q: All right. And when the next reassessment came along, he was still operating it as an apartment complex and there had been no master deed filed. Would y'all have performed a highest and best use analysis?
A: We would not have gone into the detailed financial analysis that we do on this, but we would take a practical look at the property. And we do that, actually, with a number of properties. At one reassessment, something might -- the improvements might contribute to the land. By the next reassessment, the land value might have risen so much that the improvements no longer contribute, so, therefore, you're basically valuing a vacant

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site less demolition costs.
Q: Have you ever taken an apartment complex and valued it as if it were converted to condominiums?
A: No, sir.
Q: You've never gone to any other parcel in the history of Charleston County that was actually being used as an apartment complex and said, we're going to value you under a highest and best use analysis as a condominium complex because that's the actual highest and best use for your property?
A: We have never had the market conditions. You do have a level of tests. We've never had the market conditions where it appeared that entire condominium complex -- a market condition that was tied to one of our dates of value. The date of value for our last reassessment was 12/31/03, the next one will be 12/31/08, and we were to implement this year, and the one prior to that was 12/31/98, so they're every five years. We have never had a market condition as of a reassessment date whereby the highest and best use of an apartment complex would be to, say, sell it for conversion to condominiums.

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Q: Have you ever even done that analysis? As of 12/31/03, is there any apartment complex in Charleston County that was being used as an apartment complex that y'all went in and said, we're going to do and highest best use analysis on you guys, and if we determine it's the highest and best use for this property, not to the apartments, but to be condos, we're going to assess you based on the condo valuation, not an apartment valuation? In history, have you ever done that in history?
A: I don't actually have the ability to go in and produce individual tax bills absent a horizontal property regime being filed or say a plat being filed for a subdivision. In 12/31/03, apartment complexes were not yet being bought as a whole for conversion. In the very first apartment complex that was bought for conversion, sold in 2004, it was The Enclave. In 2005 and 2006, there were a number of apartment complexes that were bought for someone to convert them. They sold for more than they would have sold for as an apartment complex. Those would have been market indicators well after our date of value that the highest and best use of an apartment

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complex might be to sell it to someone who would convert it. However, in '03, in Charleston County, there had not yet been one sold. What you did have was you did have individual apartment owners who were choosing, they would own a complex and they were choosing to convert. And when they did file the horizontal property regime which allowed me to legally send individual tax bills, we valued them individually. To me, market evidence that the highest and best use of an apartment complex would be to convert it would have been those sales that occurred afterwards. There are none of those sales, now, and I would make an argument that in -- well, in 2008, there actually were none of those sales. So that is the highest and best use argument for that. At that point in time, yes, you could convert it. But legally, I couldn't appraise the individual units and there was no evidence in the marketplace that they would sell for more for conversion. What was happening was, someone who had an existing property would convert it and then sell the individual units.
Q: All right. The Charleston County Assessor has

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never in history taken an apartment complex and valued it as condominiums under a highest and best use analysis, have they?
A: I don't believe I can do that until someone files a horizontal property regime plat, unless market conditions indicate that it would be better to be valued that way.
Q: These folks were operating an apartment complex in 2003?
A: Yes, they were.
Q: And y'all had valued them under a highest and best use analysis as of 2003 when they were operating as an apartment complex as condominiums? Isn't that what y'all did in your highest and best use analysis?
A: When we sent them a notice in two thousand and -- yes. When we sent them a notice in 2005, which was based on market conditions as of 12/31/03, we valued them as an apartment complex because they had not yet filed their horizontal property regime documents.
Q: No, that's not my question.
A: I thought it was.
Q: My question was, did you value them as apartment complexes? They were an apartment complex in

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2003. What y'all have done in this case is to under highest and best use analysis value them as a condominium -- as condominiums.
A: Is there a question?
Q: Isn't that correct? Is that what y'all have done?
A: They --
Q: You've taken an apartment comp -- you've taken a complex that was being operated as an apartment, it was an apartment complex, and you valued under a highest and best use analysis as condominiums in 2003. Isn't that what y'all did?
A: In 2006, they filed a horizontal property regime master deed. In 2006 -- in 2007, we valued the individual units at their highest and best use. A high -- what the assessor's office does, is we do retrospective appraisals. Retrospective appraisals are covered under the uniform standards of professional appraisal practice. Most private sector appraisers never do a retrospective appraisal. I only did one while I was in private practice. So what we do is, we take the condition of the property as of the lien date for taxes, 12/31, in this case '07,

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and actually the change occurred in '06, so 12/31 of '06, and we value it as if that had been the condition 12/31/03. So if someone has a property that is zoned agricultural use in 2003 and they're only allowed to either do agricultural uses or one dwelling unit per two acres, they annex into the City of Charleston and they get new zoning for residential use at six or seven dwelling units an acre. But the year following, I reappraised that piece of property that has not yet been subdivided at its highest and best use, which is for single family residential development. And perhaps other similar tracts in '03 sold for $50,000 an acre as opposed to agricultural acreage with a lower density at $25,000. So in the retrospective appraisal, the condition change was the re-zoning. But I can't value them as of 12/31/06 based on that new zoning. I have to say what were properties under the statute. I have to look at what properties were selling for in 2003 that were similarly situated. I also have to equitably appraise them. So I couldn't simply leave that residential zoned property appraised as if it's ag use, because that would be an

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inequitable appraisal. So there -- does that answer your question?
Q: I don't know.
A: Okay.
Q: Mr. James's report on the cover says, intended use of the appraisal is to determine the highest and best use of the subject property as of 12/31/03.
A: Yes, sir.
Q: So he did a highest and best use analysis as of 12/31/03, correct?
A: Yes, sir, based on the conditions that existed for tax year '08.
Q: And as of 12/31/03, these 121 units were being used as apartments?
A: They were being used as apartments, yes. However, let's go back to what we do or what an assessor does. When someone does something to change the condition of the property, they build a house on it, it doesn't matter that 12/31/03, it was a vacant lot. I still have to pick up the house. I simply value it retrospectively based on the market conditions in '03. When someone re-zones a property, it may not have been legally permissible to have put a

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commercial building on it, the condition has changed, I value it at what it would have been worth in '03, and I do that for tax year '07 or tax year '06, which is the tax year in question. I don't go back and back tax them for the previous three years because they made a change. I do it from this point forward so that they are valued the same in similarly situated properties.
Q: In that highest and best use analysis, the factor of whether it is a legally permissible use, is it y'all's position that you did not have to take into consideration the limitations in the HUD note and mortgage?
A: Are you talking about back when we appraised it initially for reassessment in '05 or are you talking about the tax your under appeal, now?
Q: I'm talking about Mr. James's report to determine the highest and best use of the subject property as of 12/31/03. It's my understanding that one of the factors that you must consider in doing a highest and best use analysis is whether a use is legally permissible. Did I state that part correct?
A: You must consider the uses --

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Q: Did I state that part correct?
A: Yes, you did state that part correct. However, the condition changed. For an assessor, I would never be able to reappraise something if, when the condition changed, I was tied back to the date of value. If a property is zoned for residential use --
Q: You can assess it --
A: -- in --
Q: You could assess it in this case, couldn't you? You would just be stuck with assessing it as it was being used, as an apartment complex.
Q: I would be -- I would have to, on any property, appraise as if it were being used. But the condition change takes me back to the date of value. You have to appraise the condition for the tax year as if it existed in '03, so I disagree with you. I do not have to consider that mortgage because that mortgage provision did not exist in tax year -- by halfway through tax year '06, which would have affected '07 or '08. That is exactly similar to re-zoning. A property is just zoned for ag and then it's re-zoned to commercial. I couldn't legally have put a shopping center on it. No one in the room

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could legally have put a shopping center on it because it wasn't allowed. So what do I do when they build a shopping center, not value it, or value the land at one use, which is not allowed by standards, it's not allowed by appraisal practice? Your land and your building have to be valued at a consistent use. So what I do, when the condition changes, such as when Mr. Follmann filed a horizontal property regime, is for that year, the condition is a legal condition but I can't appraise him as of 12/31/07. That's not fair. That's not equitable. I can't put a value on that's 25, 35, 45 percent higher than every other condo unit in the county just because market conditions are better, because things are selling for more. I have to go back and retrospectively value him under standards and under state law. State statutes require me to look back to that common reappraisal date to market conditions as they existed at that time.
Q: All right.
MR. RODGERS: I think that's all the questions I have, Your Honor. Your Honor, I didn't move to introduce those Exhibits. May I do that?

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MR. DAWSON: No objections, Your Honor.
THE COURT: Okay. They're entered.
(Respondent's Exhibit Numbers Two and Three were admitted into evidence.)
MS. GLENNON - CROSS-EXAMINATION BY MR. DAWSON:
Q: Ms. Glennon, isn't it true, prior to the Tamsburg decision, there were properties in Charleston County that the assessor's office would have valued that may have been a townhouse, but because under a highest and best use analysis, they could have been valued as being apartment complex, prior to the Tamsburg decision?
A: I wasn't here then, but yes, I -- you said were valued, is that what you said?
Q: That were --
A: Could you say that again?
Q: Sure.
A: I'm sorry, I got lost somewhere. I apologize.
Q: That's okay. That's okay. What I'm asking you, I'm going to ask it differently. Before Tamsburg -- was Tamsburg the first time in Charleston County a townhouse was put on the tax rolls as an apartment complex?
A: Yes.

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Q: Okay. So, I mean, if we talk about the Tamsburg treatment, aren't there a series of things that the Court in Tamsburg looked at to determine if it should be valued as an apartment complex versus a condominium or a townhouse?
A: Yes, sir.
Q: Mr. Rodgers asked you if you'd gotten involved every time the Tamsburg issue came up. Don't you look to what the Supreme Court did in Tamsburg to determine if a property looks like the Tamsburg property?
A: I look at the individual issues and the Supreme Court decision and the Circuit Court decision.
Q: Okay. In the Tamsburg decision, isn't it true that the Court looked to the fact that that particular property owner never intended, never tried to market the 45 units?
A: Yes. They most specifically said that. They never -- the only reason they platted the individual units separately was to get financing. At that point, there was an upheaval in the financing market. There had actually been some federal tax statute that has changed and it was almost impossible to get financing for apartment complexes. So he did it only to

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get financing and he stated that he never intended to sell them. As a matter of fact, the other people who had large groupings in there did the same thing. You could get -- it was something like 15 to 20 units you get as an individual owner under an FHA loan. And so he had one and Mr. Lane had one and Tamsburg and Lane had one, so he never intended to see them as condos as at all.

Q: Isn't it your understanding --

A: Townhouses.

Q: Sure. Isn't it your understanding that LMP had already obtained financing prior to their conversion to under the HPR?

A: Are you talking about the financing they got when they built the complex?

Q: Yes, yes.

A: They had very favorable financing. The HUD backed loans that they're talking about have a longer amortization period, which lowers your payments considerably, which puts you in a more competitive position compared to other apartment complexes, and they have a very good rate. So he had financing in hand. He had favorably financing in hand compared to other apartment

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complexes.

Q: Would you consider the LMP property to be inferior location?

A: No, not at all.

Q: Okay.

A: It's in the middle of an upscale subdivision that is 90 percent owner occupied that has a golf course and tennis clubs. The subdivision is one of the nicer subdivisions in Charleston County, if you exclude Kiawah and the resort beaches.

Q: Okay. There's been testimony by Mr. Follmann that he has been unable since 2008 to sell any more units. Is it your understanding that all the 200 units were unmarketable back in 2006 and 2007?

A: No. All the units were not unmarketable in 2006 and 2007. If you actually look at statistics for condominium sales in 2007 in Mount Pleasant, there were 302 units, condominium units sold in Mount Pleasant. There were 301 condominium units sold in Mount Pleasant in 2003, when we have earlier heard testimony that 2003 was a really, really good time. So, at the end of '07, there were slightly more sales than there

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had been in '03. However, what was happening towards the end of '07 and on into '08 was people were looking at how they priced their properties. Condominium values had risen so much. One of the reasons why condominiums went really hot is because housing values in Charleston were so very expensive, people couldn't afford things. Condominiums went up so far so fast that they started competing with the single family market. People that -- you know, some people like a condominium lifestyle because they want the pool and all that sort of stuff. Others would rather take care of a yard and plant a vegetable garden. So they started competing. What people started doing was, they started looking at their prices. And a lot of developments sold out, but they didn't keep their prices where they were. They looked at how the market was responding to these things and they adjusted their prices accordingly.

Q: The South Carolina Supreme Court, in Tamsburg, and I'm going to just read the sentence because it's a very short one. It said, and I think Mr. Rodgers mentioned it, that, it says, "Use and not title is the determining factor." You were

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here for Mr. Headley's testimony. Isn't it true that he thought that the fact that the LMP Property was titled under one person's name was an important factor?

A: Yes, he did say that.

Q: Would you agree with me, though, that the Supreme Court says that that's not the significant factor in determining highest and best use in valuing property, correct?

A: Yes.

Q: Isn't it true that that Court said that use was the determining factor?

A: Yes.

Q: And so what was the use of the property when it was converted to an HPR?

A: At the point of conversion, they still had a number of units occupied as rental units that then sold. Mr. Follmann testified that they had three units that they were using as model units. So there were rental units and vacant units and model units.

Q: Okay. Let's talk a little bit about Sabal Palms, because that was brought up.

A: Uh-huh (affirmative response).

Q: In your opinion, is Sabal Palms different than

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The Legends?
A: Yes.
Q: Okay. Why?
A: Sabal Palms has never sold one unit. There are no units whatsoever in Sabal Palms that are occupied by an owner occupant. They ceased marketing them, literally, after five weeks. They have never marketed them since. And as early as '06, their stated intention was to quit marketing them as condominiums and run them as an apartment complex. Their stated intention in January of '07 when we visited the property was that they were not going to market them as apartments. And then, when they appealed early in the year, their stated intention was that they were not going to market them as individual condominiums, but run it as an apartment complex and that they were going to abandon the horizontal property regime. So they've got -- sold absolutely -- and not only that, there are no leasing restrictions whatever at Sabal Palms. At Sabal Palms, had they sold units to -- Mr. Dawson, had he bought a unit, had it decided he wanted to rent it out, he could have rented it out. The Legends are very different. The

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Legends, part of its master deed is that, although Mr. Follmann can continue to rent units unfettered, other than that, no more than 50 percent of the units can be leased. There are leasing permits and he's given us some information where people have actually asked for a leasing permit. You have to go through a process, you have to ask, and the Board approves the leasing permit. There's also hardship permits. For example, if you have been transferred and you need to sell your unit, then you can apply for a hardship permit. But the actual master deed forbids more than 100 units to be leased at any one time. The subject of this appraisal is 121 units. So, if someone were to attempt to buy this as an apartment complex, which is what Mr. Headley has implied and it's the way that Mr. Follmann wants it valued, you could under no circumstances rent more than 100 of those units. We heard talk about vacancy earlier. Mr. Headley and Mr. Everman seemed to agree that for an apartment complex, seven, eight percent was normal vacancy. If you know going in that you can't rent more than 100 units and there's a 121,

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because he's trying to market 121 units, your vacancy right off the bat is 17 percent. But wait, have there been any units approved leasing permits? Yes, 20. All of a sudden, your vacancy is 35 percent. And as part of a horizontal property regime, you don't have total control. In this instance, the Board sets the capital reserve fund as part of the budgeting process. The budget itself is voted on by majority of the members each year, but the Board has the sole authority to set the amount of reserves. Mr. Follmann, until the last unit is sold, controls the Board. A lender, if they were going to loan money to me to purchase this 121 units and run it as an apartment complex, lenders have requirements. They usually have a set reserve rate. Mr. Everman testified in his appraisal that HUD had a set reserve rate that was within market parameters that was what they required. So the Board might set a rate that's much lower. Your lender wouldn't like that. And you have no control whatsoever over vacancy. You don't actually have a lot of control over the upkeep because the Board decides who gets the contracts for things. So if someone were

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going to appraise this as a -- going to try to value it as an apartment complex, they can't control the decision about the landscaping; they can't control the decision about the reserves that are needed; they can't control the occupancy. That is extremely risky. It is extremely unlikely that somebody would buy these 121 units. I just don't see they would do it.
Q: All right. Let's talk a little bit about how your office appraises property for ad valorem tax purposes. In this case, Mr. Follmann, through his company, LMP, has challenged his property tax assessment as of what year?
A: This is a tax year '08 appeal.
Q: Okay. And so, as a result of the tax year '08 appeal, you're not seeking to change his property tax assessment in 2003, are you?
A: No, sir.
Q: Okay. You're not looking to change it in '04?
A: No, sir.
Q: '05?
A: No, sir.
Q: Okay. So, when you talk about a retrospective appeal or a valuation, you're not looking to go back to 2003 to change his property tax

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assessment, correct?
A: To back tax him?
Q: Correct, to back tax him.
A: No, sir.
Q: Okay. You're simply looking to determine the market conditions in 2003, is that not true?
A: Yes. My understanding of the statutes under which I operate is that I am tied to that reassessment date of value and the market conditions as they existed in the reassessment year.
Q: Okay. Are those statutes statutes that govern what you do for all properties in Charleston County?
A: Yes, sir. I don't get to pick and choose.
Q: Okay. And so it requires you to go back for a data value at your last reassessment, correct?
A: Yes, sir, it does.
Q: And your last reassessment was in 2000 -- the date of value was 2003, correct?
A: Yes, sir.
MR. DAWSON: Your Honor, if I may approach.
THE COURT: Yes.
MR. DAWSON: I just want to hand you two statutes, one I referenced yesterday and another that I

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made reference today, and those statutes are South Carolina Code 12-43-215 and 12-37-3140.
Q: Now, Ms. Glennon, I'm not asking you to testify as to the law. I'm simply asking you to determine for and answer for me if the two statutes that I just read guide you in how you value property in Charleston County.
A: They don't.
Q: I'm not saying that these are the exclusive statutes, but do these two statutes guide how you value property in Charleston County?
A: The term I would use is control.
Q: Okay. Well, I'll accept your correction. So these two statutes control how you value property in Charleston County?
A: They are among the statutes that control how I value property, yes.
Q: So, in your office, when someone appeals their property tax assessment, these statutes require or control or make you go back to 2003 to look at market conditions, correct?
A: Yes, they do require me to do that.
Q: Okay. Now, when you're looking at market conditions in 2003, do you look at a subject property to determine what you could or couldn't

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do on the subject property or what you could or couldn't do in the market of properties in 2003?
A: In the market, you're looking at comparables in the market, comparable sales in this case. You're -- you have to make sure that you have appraised it with similarly situated properties.
Q: Okay. So then you disagree with the taxpayer in this case in that he believes you should value his property based on his property existence in 2003, correct?
A: I disagree. There's other people who've converted and they're valued as condo complexes.
Q: So then, LMP's property is not being treated differently than other properties in Charleston County based on how you valued it for tax purposes in 2008, correct?
A: No. It's being treated the same.
Q: Okay. Earlier today, you heard some testimony that your office does not follow standards and procedures for appraising property in South Carolina. Do you agree with that statement?
A: No.
Q: Why not?
A: Okay. From the standpoint of standards, standards are not ethics; they're not conduct.

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This is the Uniform Standards of Professional Appraisal Practice. It is by federal law, anyone who is a licensed appraiser, licensed certified registered appraiser, must abide. There are exceptions in some states for people who appraise property for ad valorem tax purposes. In this state, if you are an appraiser, regardless of who you work for, you will abide by these, so they're not ethics. They -- you have to pick a date of value. Let me read you -- this isn't a standard and South Carolina has its own definition of market value. But market value says, "A type of value stated as an opinion that presumes the transfer of property as of a certain date under specific conditions." South Carolina has a definition of market value. The Appraisal Institute has a definition. Most of them are the willing buyer, willing seller standard. No one under any compulsion, for example, you don't use for sales. But it is market value of the property, what it would bring if I sold it to you as of a certain date. Now, our state statutes govern that date, 12/31/03. If market conditions decline, until I reassess again, I'm at that

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date. There's some assessable transfer interest things that don't apply in this case so we won't get into them. In addition, there are standards for a retrospective appraisal. Retrospective appraisals have to do with when you're sitting here today valuing something in the past. That's not done just for ad valorem tax purposes, but is done in the case of an estate. Someone dies and it takes two or three years to settle the estate and you have to figure out what the real estate was worth two or three years ago, typically, as of the date of death. There is a statement in the Uniform Standards of Appraisal Practice. Two dates are essential to an appraisal report. Standards rule, and it goes into a lot of numbers, but 2-2(a)(vi), (b)(vi), (c)(vi), etcetera, says you specify the effective date of the appraisal. The effective date of the appraisal is the date of value. In the State of South Carolina, it is 12/31 of your reassessment year, the year preceding, 12/31/03 in our case. The effective date of the appraisal establishes the context for the value opinion, the context. When a retrospective appraisal date is used, how can the appraisal be

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prepared and presented in a manner that's not misleading? A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the date of the appraisal. Data subsequent to the effective date may be considered -- may be considered in developing a retrospective value as confirmation of trends that would be reasonably considered by a buyer or a seller as of that date. The appraiser should determine a logical cutoff because at some point distant from the effective date the subsequent data will not reflect the relevant market data. That is why our statute exactly reflects. That is what Mr. Headley did not do this morning. He took a 12/31/03 effective date of value and talked about condominium market conditions as of '07, '08, and '09. You can't do that by standards. He's as bound by this as I am. In addition, he spoke to -- both he and Mr. James have a section in their report about valuing things as a whole. Let me see if I can't find that real fast. First, let me read you something. There's an advisory opinion in the standards, Advisory Opinion 23. "A perspective client finances real

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estate development projects and request an appraisal for use in a single family residential tract development financing package." It kind of sounds like what we were talking about this morning or similar. "The client needs an opinion of value for the project and values for each of the four individual floor plans as if each were a finished property or a so-called typical base lot within the development." That's what Ms. Sawadske did, the Azalea plan, the such and such plan with the garage. "The project involves acquisition of finished sites and the construction of the sales of the finished home phases over a period of a year. All of the values are to be market value and the effective date of value is to be a current date all for the intended use of securing the development loan and take out loan." You're not forbidden to that. You can do the individual values. As of 2003, Mr. Headley said that the highest and best use of this property was clearly to convert it to condos. I'm stuck with market conditions in '03 and I also appraise them individually. Just as I have to appraise subdivision lots individually and just as by

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state statute, a developer can't apply for a multi-lot discount, I must appraise the condos individually. There is no condo multi discount. There is no such thing. But he talked about how you are required to appraise the whole. No, that's an assignment. I worked in private practice. Mr. James worked in private practice. I was asked to value entire subdivisions. They would ask me for gross retail, give me what each of these typical lots are worth, the waterfront lots and there's 25 of them, the title access, and also give me a net present value. That's the assignment. I could have given the lender the gross retail and they could have figured out the net present value. What I'm not allowed to do is mislead you as to what I'm doing. I'm not misleading you as to what I'm doing. I am valuing the individual parcels because I am required to do so by state law.

Q: Thank you, Ms. Glennon.

MR. DAWSON: No further questions, Your Honor.

THE COURT: Okay. Thank you.

MR. RODGERS: She was my witness. I'm to trying to remember. I get to go again.

MS. GLENNON - REDIRECT EXAMINATION BY MR. RODGERS:

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Q: Briefly, the issue of whether the master deed contains a limitation that would prevent LMP Properties from leasing the units or from selling them to someone who could lease the units. Did you testify that you believe there is some provision in the master deed that would prevent a buyer of 121 units from LMP Properties from leasing all 121 units?
A: You can lease up to 50 percent of the -- Mr. Follmann, until he sells his last unit, can lease as many of them as he wants. He's the declarant and that is specific. But the horizontal property regime documents say --
Q: I think it's in front of you, Respondent's Eight. Is it over on the ledge, right there?
A: Well, I've got mine marked. I'd have to find the page in there.
Q: All right.
A: So I do have the same thing. Leasing, it is page 31, and I'm assuming that's Respondent's Eight because we have the same recording on it.
Q: Okay.
A: "In order to preserve the character of the regime as predominantly owner occupied and to comply with the eligibility requirements for

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financing the secondary market, the leasing agent shall be governed by the restrictions below. Accept as provided herein, the leasing of units shall be prohibited."
Q: And then it sets forth some leasing --
A: It sets forth some conditions. Owners can apply for a leasing permit or a hardship permit. There are conditions as to the duration of the use. Leasing permits outstanding at an owner's request for a leasing permit shall be approved. And they have approved 20 of them that I'm aware of. If the current outstanding leasing permits have not been issued for more than 50 percent of the total number of units, excluding units owned by the declarant. That tells me they can lease 100 units. Now, there are some hardship permits, but I don't really see -- there's some specific requirements for hardship permits, the nature, degree, and likely duration of the hardship. Leasing it as an apartment complex is going to be a really long duration and doesn't really fit hardship. It says the harm which will result to the regime, the owner's ability to cure the hardship. They've got -- they give some examples, an owner must relocate his or

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residence outside the Greater Charleston Metropolitan Area. They provided us with someone who was going to be transferred and they had found someone in the Coastguard who was going to lease the unit for two years. Where the owner dies and the unit's being administered by the estate. When the owner takes a leave of absence or temporarily relocates, think about someone who's been deployed to Iraq. Hardship leasing permits should be valued for a -- valid for a term not to exceed one year. So, yes, I believe that 50 percent of the units can be leased, except for what Mr. Follmann does under the terms of his horizontal property regime.
Q: Okay. Look on page 34, the top paragraph, again. The applicability of this paragraph, that's the paragraph you were just reading from about restrictions on leasing.
A: Uh-huh (affirmative response).
Q: Not withstanding the above, this paragraph shall not apply to any leasing transaction entered into by the declarant, do you see that?
A: Yes. Mr. Follmann is the declarant, or well, Mr. Follmann and his wife, through their corporate entity.

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Q: LMP Properties, the taxpayer in this case?
A: Yes.
Q: Do you have page 2 of the master deed?
A: Yes.
Q: All right. Page 2, item J. Do you see that?
A: Uh-huh (affirmative response).
Q: Will you read that first sentence?
A: Declarant shall mean LMP Properties -- wait, hold on. Declarant shall mean LMP Properties, Inc, a South Carolina corporation, its respective successors, assigns and any other person, provided that the successors and assignees are designated in writing by the declarant as its successor and/or assign of the rights the declarant set forth herein.
Q: All right. Somebody came in and bought 121 units from LMP Properties, wouldn't they be a successor or assign?
A: I would say they would be a completely new entity, just as Mr. Ferrara, if he buys a unit isn't a successor or assign. I would say it was a completely new owner.
Q: Doesn't LMP Properties, under that paragraph, have the ability to designate a buyer in writing so that they are treated as a successor or

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assign? Isn't that exactly what it says?
A: It says that they can designate them as a -- as a successor or assign.
Q: And --
A: But I don't believe they would do that if they still had 22 units.
Q: All right. You don't believe they would. I'm asking you, does the document prohibit them from selling 121 units as apartments and the buyer who buys the 121 units from them, if they did, does the master deed prohibit that buyer from leasing 121 units? Isn't the answer to my question no?
A: Just a second. Let me -- Mr. Follmann will be giving up his rights to be the declarant, but it appears that he could reassign his right, his --
Q: If those words --
A: I'm not sure what the term is.
Q: -- mean what they say they mean, then that's what it means, right? All right. That's it. Thank you.
THE COURT: Thank you, Ms. Glennon.
MS. GLENNON: To paraphrase Mr. Headley, can I be excused?
MR. RODGERS: No more witnesses, Your Honor.

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THE COURT: Okay. Does anyone have any problem with Ms. Glennon being excused at this point?
MS. GLENNON: I'm not actually leaving, I just --
THE COURT: Oh, okay.
MS. GLENNON: I'm going that far.
THE COURT: Okay. I thought you wanted to --
MS. GLENNON: But I've got a lot of -- I've got to make a couple of trips because I've got a lot of stuff, or I can leave it here and then do that after y'all are done.
THE COURT: I'm sorry?
MS. GLENNON: Well, I've got a lot of stuff. Would you prefer me to just go sit down and then pick all this stuff up later?
MR. DAWSON: Your Honor, I'll help.
THE COURT: It's fine. It's fine.
MR. DAWSON: Just go sit down.
MS. GLENNON: Okay. All right. I just didn't want to make three trips.
MR. DAWSON: All right.
THE COURT: Okay.
MR. DAWSON: Your Honor, we don't have any rebuttal. I obviously took the liberty in cross to ask a lot of questions. Thank you, Your Honor.
THE COURT: Okay. Very good. Thank you. Okay. If

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that's the Petitioner's case as well as the Respondent's case, we will proceed to closings at this point. Do you all need any break before closings or are you ready to proceed to closing?
MR. FERRARA: The county is ready to proceed, Your Honor.
RENEWAL OF MOTION FOR DIRECTED VERDICT - BY MR. RODGERS:
MR. RODGERS: I don't need a break, Your Honor, but I would like to renew my motion that I made at the conclusion of the Petitioner's case for a directed verdict on the issue of highest and best use as of 12/31/03. I'd like to renew that motion, now that we're at the close of all the evidence.
THE COURT: Okay.
MR. DAWSON: Your Honor, I won't re-argue what I argued. My argument still stands and I still believe that pure legal perspective, the statutes preclude the issue that he's trying to raise because the way they framed the case is different from what the county did. They simply did not value the property as they prescribed and you've heard testimony again today on how the county valued the property and, therefore,

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the mortgage clause and the other issues that he's raised are irrelevant to the case. So we believe there is sufficient evidence and we believe the current interpretation of the statute supports the county's position.
THE COURT: Thank you. Mr. Rodgers, I'm still denying your motion for a directed verdict on that issue. And at this point, we'll proceed to closing.
MR. RODGERS: Yes, ma'am.
THE COURT: Beginning with the Petitioner.
CLOSING STATEMENT - BY MR. FERRARA:
MR. FERRARA: Thank you, Your Honor. And I'm going to be brief, but I just want to try to get across some concepts, and I know you've just heard all of what I'm going to restate, but I'm going to try to track what the state law says. And Mr. Dawson served up to Your Honor two sections, 12-43-215 and 12-37-3140. But before I get into discussing the statutes, I'd just like to go through what our theory of the case is. In 2003, the highest and best use of the property was as a 200 unit apartment complex. That continued on through 2004 and 2005 and that was how the Charleston County the assessor's

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office valued the property. The assessor's office valued the property as an apartment complex. The apartment complex, the property was on the tax rolls in Charleston County as an apartment complex, one TMS number, one tax map parcel number, one property, one apartment complex. Respondent paid taxes on the property as an apartment complex. Then we fast forward to 2006, the conditions changed. What changed? The use changed. And I know that you heard testimony that the use continued as an apartment, but, Your Honor, it went from ten occupied units to owner occupied units. Fifty-eight condominium units were occupied either by owners or the owners leased them out for single family residential units with all the rights of ownership of a single family dwelling as if it was on a separate parcel in a subdivision. In 2007, for tax year 2008, the appeal is for tax year 2008. In 2007, the property was used as a horizontal property regime. There were condominium units being marketed for sale, again, some sold. The highest and best use, Your Honor, in 2007 was as a horizontal property regime. In fact, LMP Properties' president, Mr.

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Follmann, testified that he agreed with my statement that the highest and best use in 2007 was as an HPR, horizontal property regime, as condominium units. What the assessor's office did was value the property as an HPR, a horizontal property regime, based on 2003 values. And this is key. The assessor's office did not value the property as a horizontal property regime in 2007 with 2007 values. It was valued as a property in 2007 as an HPR with values as of 2003. And that's really our theme of the case. So the question is, how does the assessor's office arrive at these values? What does the assessor do? The assessor looks at the market conditions in 2003. It does not look at the comparables in 2007, but it looks at comparables in 2003. That is why the assessor's office looked at the condominium comps in 2003 that you've heard all this testimony about. So the key theme in this case is the assessor assigned a 2003 value to a 2007 property in a horizontal property regime. Speaking to this prohibition, this prepayment penalty prohibition, in 2007, the property was a horizontal property regime. This penalty,

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prepayment penalty prohibition or barrier to have the property valued as condominiums is a red heron because it didn't exist in 2007. We take that property as it existed in 2007, a horizontal property regime of 200 condominium units, and look back to 2003 and say what are the comparables, what are the condominium comparables in 2003 to arrive at values for those condominiums in 2007? So there is no barrier. There is no prohibition that existed on the property in 2007. So we don't look -- you don't look at that prohibition. It did not -- didn't apply. What I do want to look at, Your Honor, is Mr. Dawson served up to you two statutes. And I just want to quickly look at some of the words of the statute. And I'm looking at 12-43-215 and it is a fairly recent statute. It was amended in June of 2005. And the reason why I'm trying to stress this theme from the assessor's offices position is it says, when a property owner or an agent for a property owner appeals the value of a property assessment, that's Mr. Follmann or the Respondent, LMP Properties, Inc., the assessor, my client, shall consider the appeal -- we're

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here today -- and make any adjustments, if warranted, and this is the key language, based on the market values of real property as they existed in the year that the equalization and reassessment program was conducted and on which the assessment is based. Key words, based on the market values of real property as they existed. So we take this 2007 property with a horizontal property regime of condominiums and we look and compare it to properties as that property existed in the year of equalization and reassessment, which is 12/31/2003, and value the property accordingly. The second statute Mr. Dawson served up to Your Honor is 12-37-3140 and this is much more recent statute. It is a 2007 statute and its called, Determining Fair Market Value. And the point of this statute is, it says for tax years -- for property tax years beginning after 2006, we have that. It's a 2008 tax year for property -- for tax year -- the tax year 2008, so we look at the tax for the property as of 2007. So we're after 2006. For property tax years beginning after 2006, the fair market value of real property is its fair market value applicable for the layer of. And

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then its got four sections that defines the later of. And we look at subsection (D), (A)(1)(D), as it may be adjusted as determined in a countywide reassessment program conducted pursuant to Section 12-40-3217, but limited to increases in such values provided in subsection (B) of this section. My point is this, Your Honor. This recent statute brings us back to the statute I just read to you, that we do go back and we value the property at the priority assessment and equalization program. So we're not taking Mr. Follmann's property back to 2003. Instead, the assessor is taking similarly situated properties, like Mr. Follmann's, a property with a horizontal property regime of condominium units, back to the last reassessment equalization program, which was in 2003. And then the assessor is going to assign values to those comparables, to those condominium comparables in 2003. Again, there's no prohibition in 2007, 8, 9, 10, regarding this prepayment prohibition penalty barrier to convert it into condominiums in that mortgage that we've heard so much about. Your Honor, there -- I laid it out in my opening. There is

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a presumption of correctness in the valuation of the assessor's valuation. And I've gone through 12-43-215 and Respondent's 2007 property is based on the market value of real property as those similarly situated properties existed in the year of equalization and reassessment in 2003 and it says, the assessor shall. And I want to talk to you quickly. There are some other statutes that control, as the assessor said, what she shall do when she values the property. And one of them is the valuation of property and I only have one copy. And its Section 12-37-930 and it talks about how property must be valued for taxation purposes. And this is the willing buyer, willing seller standard. But I wanted to -- I'm sorry, that is not the -- I'm sorry, it is the willing buyer, willing seller. And let me just read what the first part, it says, "All property must be valued for taxation as true value in money, which in all cases is the price which the property would bring following reasonable exposure to the market where both the seller and the buyer are willing and not acting under compulsion and are reasonably well-informed of

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the uses and purposes for which is adapted and for which it is capable of being used." It's a very low threshold of the use, okay. The use in 2007 was as condominiums. The other statute that also controls what the assessor shall do, is found in the South Carolina Horizontal Property Regime Act, and that's 27-31-270. And this says, it's titled, The Assessment and Collection of Taxes. "Taxes, assessments and other charges of this state, or of any other political subdivision, or of any special improvement district, or of any other taxing or assessing authority shall be assessed against and collect on each individual apartment, each of which shall be carried on the tax books as a separate and distinct entity for that purpose and not on the building or property as a whole." I'll just serve that up to you. My point is this, Your Honor. The county has a presumption of correctness going into this litigation, into this appeal. And what is the assessor required to prove? The assessor's required to prove the correctness of its valuation. We're not here -- we're not required to prove the correctness of Respondent's valuation. And we're not here or

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required to approve the correctness of the Board's decision. We contend that the Respondent did not, cannot overcome that presumption of correctness after looking at the two statutes I just talked to you about taxation valuation and the two previous statutes talking about equalization and reassessment and how you arrive at the fair market value of property in South Carolina. So looking at the statutory guidance as a whole, the assessor is on solid ground with its valuation of the 121 single family residential condominium units, a 2007 property in a horizontal property regime with values assigned as of the last reassessment in 2003. Thank you.

THE COURT: Thank you, Mr. Ferrara. Mr. Rodgers.

MR. RODGERS: May it please the Court. Can you read that, Your Honor?

THE COURT: Yes, I can.

CLOSING STATEMENT - BY MR. RODGERS:

MR. RODGERS: The key issue as we finish is the same as it was when we began. What is the fair market value of these 121 units as of 12/31/03? To answer that question, as the county has recognized, as their appraisers recognized, we

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must determine the highest and best use of this property as of 12/31/03. That takes us down two potential roads. One is as an apartment complex. One is as condominiums. On the left side, as apartments, primarily, you use the income approach. On the right side, as condominiums, primarily, you would use the sales comparison approach. If we start down the left side as apartments, was the highest and best use of this property, these 121 units, as of 12/31/03 as apartments. If so, what was the value? Well, that's easy. They've already done that. Steve Everman did his report before this case ever started where he valued the 200 units. And then Gary James did a report in this case where he took Mr. Everman's valuation, prorated it in his special way, reduced it by the 2005 Board of Assessment Appeals decision to come up with a value. That's their Exhibit Six in his report, in the James report. That's from the county themselves. When you value it that way, we get a value under the income approach for these 121 units as apartments of 8.56 million. That's their number. You heard Mr. Headley testify that he went through that same analysis.

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And it's not complicated because it is simply the net operating income divided by a cap rate. Our net operating income and the cap rates aren't very far off from what we both use, so we end up with very similar numbers as to the valuation for these 121 units as an apartment complex. If we also -- if we consider it as apartments, then we also consider was a potential highest and best use of these 121 units as of 12/31/03 condominiums. I didn't write their reports for them. Their reports say -- right there on the cover of Mr. James's report, it says, the purpose of this report is to determine the highest and best use as of 12/31/03. He lists the four factors that you go through. The first factor is whether it is legally permissible. Why, now, do they run from number one? They run from it because they didn't consider the impact of that note and mortgage. It's not like coming in today. They did an analysis. It's not in their report. We took a look at the note and mortgage. We took a look at that legal limitation on the permissible use and here's why it doesn't apply. That's not what they did. They didn't consider

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it. So coming in here before you today, what are they going to say? They cannot -- they've got to say that's not relevant. They've got to say we're going to disregard that. But we're not trying to determine the highest and best use of other market properties. They're saying we're looking at the market in general for 2003. The highest and best use analysis is for a particular piece of property. It is for this piece of property. If the use is not legally permissible as of a particular time, then it cannot be considered a potential candidate for highest and best use. So our initial position is, if they don't pass number, you stop. If they do pass number one, even if they're right about it is a legally permissible use, then the question becomes, well, how do you value these 121 units if they are condominiums. Mr. James, as a part of his report, did a financial feasibility test where he came up with a value of $13.8 million. Mr. Headley took his numbers and said, I'm going to start with the same individual value as you started with, and it ends up, actually, being $11.2 million. I understand the concession that he makes by

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starting with the same numbers. You remember my cross-examination of Mr. James, when we looked at the starting numbers, that's where his analysis -- before we do all the discounting to get down to the 13.8, where you start is critical because the higher you start, the higher you're going to finish up. We looked at the comparables that he used for one, two, and three bedroom units and You Honor may recall the spread for per square foot value on a one bedroom unit was $91 for one of his comps and $165, I believe, for the other one. That's a huge spread. He used a $163. That's a Daniel Island property. That's a different market. Our position on his valuation, on his comps, or if they used the right comps, they're going to get much lower values. So Headley gives him the benefit of the doubt even on all those comps. It's actually much lower. Where they finish up after Mr. James does his financial feasibility test, they tell you, no, that's not a valuation, that's not a final number, that's not how you actually should value the units in this case. How you actually should do it is individual unit values. That's what Ms. Sawadske did. She came

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in and used a sales comparison approach, a traditional way to value individual -- a single family house. That's the way you do it. Well, the good thing about an appraisal report is, they have to show you how they did their work. It's like a math problem. You've got to show us how you came up with your result. So we don't have to take their word for the conclusion they reach. It's not just they come in and say we think the value is $110,000 for a one bedroom unit or we think the total value is $16.454 million and go sit down. We get to look at their data. So, when we look at her data, her foundation, I would tell you her foundation is made out of sand. If we go through her comps, and we did, her one bedroom comps, remember, she came up with an ending value of $110,000 and it's simple to figure out, well, what was the per square foot value. Just divide it by the number of square feet in that unit. When we went back and looked at her comparables that she based that on, the comparables had a per square foot range of 82, 84, 156, so the 156 jumps out at me. So we go and we look at the comparable that led to that value. And what you find --

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this is from her report. That's a map of the property, of the comparables she used. And she always -- the subject's going to be in red, that's The Legends, and then her comparables are in blue. So it shows that comparable one, Center Street, seven and a half miles away. That's Sullivan's Island. This is Charleston over here. So it's coming towards Charleston, that comp, 4.81 miles away. But you don't have to drive on Highway 17 at rush hour. These are a different zip code. They're not in a different zip code because they're across the street from the others. They're a good distance away is the reason they're in a different zip code. Their prices reflect the fact -- their per square foot prices reflect the fact they are different. They are not like that comp that's up there beside The Legends. Our position is, if you take -- if you use her comp -- I didn't go pull comps. I didn't go try to find properties to support my position. I'm using her comps. And I'm saying, if you use her comps that are most similar to The Legends, what you end up with on a one bedroom unit is that comp, $84 a square foot, your opinion on value would

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be $63,500 as opposed to $110,000. When you spread that out over all the one bedroom units, that's a big differential. That same analysis applies to the two bedrooms. It's the same way of judging the legitimacy of her conclusion. Her conclusion for a two bedroom is, it's worth $148,000. And if you divide that by the number of square foot, you realize she used a $143.69 as a per square foot price for a two bedroom unit. But when we pull her comps and look at them, we realize the range was $95 to $126, so the per square foot price she used is well above range. When we look at the comps, the same thing. If you use the comps that are bunched together, the comps that are around The Legends, and don't use the one that's way down here out of the way, because we say that's not a good comp. If you make that simple adjustment, average those per square foot prices, $98.44, multiply it by the square feet, you come up with a big difference on the value of the units. The same thing for a three bedroom. It's the same analysis. You look at the comps. You see two comps that are bunched together and around where The Legends is. You see one that's not. You

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see one that's way out of the way. And when you look at the per square foot price of that comp, it's going to skew the results. If you take it out, you get a truer representation of what the value of these units should be. If you crunch all those numbers, her values, Sawadske, the values she says and the county assessor says, these are the values that ought to be used in this case. If you take those for one bedroom units, multiply them out and add them up, you get a total of over $16 million. If you tweak just by throwing out the comps that are in a different zip code that are farther away that have a higher square foot price and base it on per comps, only just the comps that are in the geographic area around the subject, you come up with $10,859,917. So, if you decide that the highest and best use of this property as of 2003, it is legally permissible to consider condominium units and you're analyzing it using Ms. Sawadske's appraisals, that would be an appropriate adjustment to make. We don't have to take her word for it. We don't have to say, oh, you told us they were worth $16 million. We can look at her data and decide whether her data

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supports her conclusion. When you look at what the Board of Assessment Appeals did below, the value they come out with when they modify all those individual values, not too far off that, not too far off $10,859,000. Their number is $10,090,000. What they say they have seen is the value of these units. We have considered it down two different roads. How do you value this property? What's the highest and best use? We can go down the route as apartments, that's what the Respondent says, you ought to value you them as apartments because that's the way they were being used, that's the way they are being used, and every point in between, the use of these 121 units was as apartments. They should be valued that way. If you go down the other side and say condos is the highest and best use, you can value them like Mr. James with the modification, you can use Sawadske with the modification. The interesting thing about this case though is you can go down this road of condominiums and still end up back on this side valuing the property as apartments. And that's because of the Tamsburg case. So, even if these units are titled as condominiums, they can still be valued

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collectively as apartments. That's the proposition that the Tamsburg case stands for. In that case out of Charleston County, they had a single parcel that was being used for apartments. They divvied up the individual buildings, turned them into individual townhouses and kicked out individual tax assessments and they taxed him on that or they sent notices out on that. They were challenged and what Tamsburg said is that they may be 45 different parcels, but I'm using them today after I did that the same way I was using them before as apartments. What that led to in Charleston County is they adopted -- they had to adopt it, that's Supreme Court decision. They had to adopt that in the way they valued property. And so you saw on the code sheets, they have a special code for properties that are condominiums but they're going to get treated like they're an apartment complex. Those are, I call them Tamsburg properties. They're special. They're unique. What they mean is, they're condos. You've heard of Sabal Palms. Those are condominiums, 300 condominium units. They're individual condominium units and,

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nevertheless, they're being valued by the Charleston County Assessor's Office as apartments. We say you should start out valuing us as apartments because as of the valuation date, that was the highest and best use of this property. However, even if you go down this road, you end up back over here because of Tamsburg. It's the link that takes you from the condominium side back to the apartment side. If you come back to the apartment side, there's no dispute about how you value it. You value them at the net operating income divided by a cap rate, and you're going to come out in the eight and a half to nine million dollar range. That's where that valuation ends up. The reason we think you ought to be there is because that's the way these units are used. There is no dispute about the use of these units, these 121 units, not some other units, not units 122 through 200, not units that are in the market condition and different properties, these units, the units that are before you today. There is no dispute that the use of those units has never changed. And Tamsburg says it is the use, not the title that is the determining factor. The

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use of these units as of 12/31/03, 12/31/07, yesterday, today and tomorrow has been as apartment units and that's the way they ought to be valued. Thank you, Your Honor.

THE COURT: Thank you, Mr. Rodgers. Okay. That continues the case. And I am going to take all the testimony and the exhibits under advisement and I'm going to take a few days to review everything.

MR. RODGERS: Your Honor, I didn't do this at the conclusion. I want to make sure all -- can we look at the exhibits to make sure they're all in, the ones we marked, to make sure they're all in evidence? I think we had done that but I always like to double-check at the end of a trial to make sure the court reporter has everything.

THE COURT: Okay. That's fine. But once -- I will probably just -- I'll probably have Wanda, this is Ms. Cannick, my law clerk, to email the parties when I have -- I will not take any more than two weeks to take this under advisement and I should render a decision within the next week or so, and I will email the parties, both sides, with my final decision. And that concludes the

hearing. And if you would like to come up and review the exhibits, that's fine.

MR. RODGERS: Thank you, Your Honor.

MR. FERRARA: Thank you, Your Honor.

(Respondent's Exhibit Numbers Six, Eight, Nine and Twelve were admitted into evidence at this time.)

(There being nothing further, the hearing was concluded at 3:54 p.m.)

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Assessors Exchange Summary

File No. 08/599-00-00-XXX

Borrower/Client	N/A			
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed			
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466
Lender	Ad Valorem Tax Purposes			

ASSESSOR'S EXCHANGE

Enclosed find copies of documents, including appraisals, property sales, and a brief description of any other evidence that will be introduced or submitted by the Assessor. Also enclosed are the names of the witnesses who will testify, and a brief statement of what the witnesses will be expected to establish or prove.

PARCEL DATA

AS OF DECEMBER 31, 2003 FOR TAX YEAR 2008

Owner:	**Keystone Legends I LP**		
Agent:			
Parcel ID Number:	**08/599-00-00-XXX**	**Tax District:**	**2-1**
Property Location/Address:	**1100 Legends Club Dr, 1 BR, # 1 bed**		
Legal Description:	**1 Bedrm Unit, Dogwood Plan, The Legends *** See Addenda*****		

OPINION OF VALUE

	Appellant		Assessor	
	FMV(1)	ERA(2)	FMV(1)	ERA(2)
Land Value				
Building Value				
Improved Value				
TOTAL				

Comments: **See Attached: "Issues Surrounding the Case"**

Witness(es) to Testify: Angela H. Sawadske
Senior Staff Appraiser

Toy Glennon, Assessor

July 22, 2010
Date

Note:

(1) FMV = Full (100%) Market Value **(Estimate as of 12/31/03)**

(2) ERA = Equity Relationship of Appellant's Property to Other Similar Properties in the Area

BAA#: **BAA: 08 -0004**
PID#: **08/599-00-00-XXX**

PETITIONER'S EXHIBIT
0207
PENGAD 800-631-6989

Issues Surrounding the Case

File No. **08/599-00-00-XXX**

Borrower/Client	N/A				
Property Address	**1100 Legends Club Dr, 1 BR, # 1 bed**				
City	**Mt. Pleasant**	County **Charleston**	State **SC**	Zip Code **29466**	
Lender	Ad Valorem Tax Purposes				

Issues Surrounding the Case:

The Legends is a 200 unit condominium complex located in Mt. Pleasant, located in front of the Charleston National subdivision. It is a private gated community with a pool, clubhouse, fitness center, business center, tennis courts and a playground. The project was originally an apartment complex that was converted to condominiums by master deed D581-121 filed April 27, 2006. For tax year 2007, each condo unit was valued individually and notices were mailed informing the owners of the new values. For tax year 2008 one of the owners has appealed, requesting that 121 of the 143 units he owns be valued as an apartment complex. There are no outstanding appeals from the owners of the other 57 units in the complex for tax year 2008.

The Legends has a total of 11 floor plans. For the Administrative Law Court, an appraisal has been submitted for a typical 1 bedroom, 2 bedroom and 3 bedroom unit with effective dates of 12/31/2003 and 12/31/2007. This was done in order to verify if the 2007 values had dropped below the 2003 values. After completing these appraisals it was confirmed that 2007 values had not fallen below 2003 values, but the appraiser would recommend that the individual 2003 values be lowered according to the spreadsheet below.

Floor Plan	Pre-Appeal 2003 Values	12/31/2007 Lien Date Value	Recommended 2003 Values
1 Bedroom Units			
Azalea Plan (13)	$115,000	$140,000	$105,000
Azalea Elongated Plan(10)	$120,000	$143,000	$107,000
Dogwood Plan (33)	$120,000	$146,000	$110,000
Magnolia Garage Plan (5)	$145,000	$171,000	$134,000
2 Bedroom Units			
Jasmine Plan (2)	$175,000	$193,000	$148,000
Jasmine Elongated Plan(1)	$180,000	$199,000	$156,000
Jasmine Garage Plan (6)	$200,000	$216,000	$170,000
Oleander Plan (38)	$182,000	$202,000	$157,000
Oleander Garage Plan (1)	$205,000	$222,000	$175,000
3 Bedroom Units			
Camellia Plan (9)	$205,000	$215,000	$170,000
Camellia Garage Plan (3)	$230,000	$238,000	$192,000

APPRAISAL OF REAL PROPERTY



LOCATED AT

1100 Legends Club Dr, 1 BR, # 1 bed
Mt. Pleasant, SC 29466
1 Bedrm Unit, Dogwood Plan, The Legends *** See Addenda***

FOR

Ad Valorem Tax Purposes
N/A

OPINION OF VALUE

110,000

AS OF

12/31/2003

BY

Angela H. Sawadske
Charleston County Assessor's Office

Charleston, SC
(843) 958-4100
asawadske@charlestoncounty.org

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA: 08 -0004
File No.: 08/599-00-00-XXX

SUBJECT

Property Address: 1100 Legends Club Dr, 1 BR | Unit #: 1 bed | City: Mt. Pleasant | State: SC
Zip Code: 29466 | County: Charleston | Legal Description: 1 Bedrm Unit, Dogwood Plan, The Legends *** See Addenda***
Assessor's Parcel #: 599-00-00-XXX *** See Addenda***
Tax Year: 2008 | R.E. Taxes: $ Est 1500 | Special Assessments: $ None Noted | Borrower (if applicable): N/A
Current Owner of Record: Keystone Legends I LP | Occupant: ☐ Owner ☒ Tenant (Market Rent) ☐ Tenant (Regulated Rent) ☐ Vacant
Project Type: ☐ Condominium ☒ Other (describe) Apartment Complex as of effective date of appr | HOA: $ N/A ☐ per year ☐ per month
Market Area Name: Mount Pleasant | Map Reference: 599-00-00-XX | Census Tract: 46.01
Project Name: The Legends | Phase: 1

ASSIGNMENT

The purpose of this appraisal is to develop an opinion of: ☒ Market Value (as defined), or ☐ other type of value (describe) For Ad Valorem Taxes
This report reflects the following value (if not Current, see comments): ☐ Current (the Inspection Date is the Effective Date) ☒ Retrospective ☐ Prospective
Approaches developed for this appraisal: ☒ Sales Comparison Approach ☐ Cost Approach ☒ Income Approach (See Reconciliation Comments and Scope of Work)
Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)
Intended Use: See Addenda

Intended User(s) (by name or type): See Addenda
Client: Charleston County | Address:
Appraiser: Angela H. Sawadske | Address: 101 Meeting Street, Charleston, SC 29401

MARKET AREA DESCRIPTION

Location:	☐ Urban	☒ Suburban	☐ Rural	
Built up:	☐ Over 75%	☒ 25-75%	☐ Under 25%	
Growth rate:	☐ Rapid	☒ Stable	☐ Slow	
Property values:	☐ Increasing	☒ Stable	☐ Declining	
Demand/supply:	☐ Shortage	☒ In Balance	☐ Over Supply	
Marketing time:	☐ Under 3 Mos.	☒ 3-6 Mos.	☐ Over 6 Mos.	

Predominant Occupancy
☐ Owner
☒ Tenant
☐ Vacant (0-5%)
☐ Vacant (>5%)

Condominium Housing

PRICE $(000)		AGE (yrs)
97	Low	1
248	High	20
155	Pred	3

Present Land Use

One-Unit	%
2-4 Unit	%
Multi-Unit	99 %
Comm'l	1 %
	%

Change in Land Use
☒ Not Likely
☐ Likely * ☐ In Process *
* To:

Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Typical financing is conventional or cash. It is typical of the market for sellers to pay buyers closing costs. Average time on market is 3-9 months.

PROJECT SITE DESCRIPTION

Zoning Classification: Residential | Description: PD - Planned Development
Zoning Compliance: ☒ Legal ☐ Legal nonconforming (grandfathered) ☐ Illegal ☐ No zoning
Ground Rent (if applicable) $ N/A/ | Comments: N/A
Highest & Best Use as improved (or as proposed per plans & specifications): ☒ Present use, or ☐ Other use (explain)
Actual Use as of Effective Date: Apartment Complex | Use as appraised in this report: Residential Condominium
Summary of Highest & Best Use: The current use as a residential condominium is the highest and best use of this property. Current zoning allows this use and it is physically, and legally permissable.

Utilities	Public	Other	Provider/Description
Electricity	☒	☐	
Gas	☒	☐	
Water	☒	☐	
Sanitary Sewer	☒	☐	
Storm Sewer	☐	☐	

Off-site Improvements	Type	Public	Private
Street	Asphalt	☐	☒
Curb/Gutter	Concrete	☐	☒
Sidewalk	Concrete	☐	☒
Street Lights	Typical Overhead	☐	☒
Alley	None	☐	☐

Density	8.6 units/acre
Size	200 units / 23.22 acres +/-
Topography	Level at Grade
View	Typical Interior

Other site elements: ☒ Inside Lot ☐ Corner Lot ☐ Cul de Sac ☐ Underground Utilities ☐ Other (describe)
FEMA Spec'l Flood Hazard Area ☐ Yes ☒ No FEMA Flood Zone Zone X | FEMA Map # 45019C0345J | FEMA Map Date 11/17/04
Site Comments: Final determination of flood zone should lie in survey. No adverse easements or encroachments noted at the time of inspection.

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BAA: 08 -0004

File No.: 08/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

PROJECT INFORMATION

Data source(s) for project information: Physical Inspection, Master Deed, Owner, MLS

Project Description: ☐ Detached ☐ Row or Townhouse ☐ Garden ☐ Mid-Rise ☐ High-Rise ☒ Other (describe) Low-Rise

General Description of Project				Subject Phase	#	If Project Completed	#	If Project Incomplete	#
# of Stories	Two	Exterior Walls	Hardi Plank	Units	200	Phases	1	Planned Phases	N/A
# of Elevators	N/A	Roof Surface	Comp Shingles	Units Completed	200	Units	200	Planned Units	N/A
☒ Existing ☐ Proposed ☐ Und.Cons.		Total # Parking	***See	Units For Sale	N/A	Units for Sale	N/A	Units for Sale	N/A
Design (Style)	Low-Rise	Ratio (spaces/unit)	Below***	Units Sold	N/A	Units Sold	N/A	Units Sold	N/A
Actual Age (Yrs.)	Built 2000	Parking Type(s)	Open	Units Rented	196	Units Rented	196	Units Rented	N/A
Effective Age (Yrs.)	3 Years	Guest Parking	Included	Owner Occup. Units	N/A	Owner Occup. Units	N/A	Owner Occup. Units	N/A

Project Primary Occupancy: ☐ Principle Residence ☐ Second Home or Recreational ☒ Tenant *** See Addenda ***

Is the developer/builder in control of the Homeowners' Association (HOA)? ☒ Yes ☐ No

Management Group: ☐ Homeowners' Association ☒ Developer ☐ Management Agent (name of management agent or company): Keystone Legends I LP, owned all 200 units in the complex as of the effective date of value.

Was the project created by the conversion of existing building(s) into a condominium? ☒ Yes ☐ No If Yes, describe the original use and date of conversion.
The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006.

Are CC&Rs applicable? ☒ Yes ☐ No ☐ Unknown Have the documents been reviewed? ☐ Yes ☒ No Comments:

Project Comments (condition, quality of construction, completion status, etc.): The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006. The complex is average quality of construction and average condition for its age. Common elements include privacy gate entry, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House. The project is complete. The complex was constructed with each unit having seperate HVAC, electric meters, water meters, and washer/dryer connections thus making the cost to convert the units from multi-family to condominiums minimal.

Common Elements and Recreational Facilities: Common elements include private entry gate, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House.

PROJECT ANALYSIS

Summary of condominium project budget analysis for the current year (if analyzed): Due to the property being a multi-family apartment complex as of the effective date, there is no condominium budget to analyze.

Other fees for the use of the project facilities (other than regular HOA charges): None Noted

Compared to other competitive projects of similar quality and design, the subject unit charge appears ☐ High ☒ Average ☐ Low (If High or Low, describe)
Due to this being a hypothetical appraisal, there are no current unit charges to analyze.

Are there any special or unusual characteristics of the project (based on the condominium documents, HOA meetings, or other information) known to the appraiser?
☐ Yes ☒ No If Yes, describe and explain the effect on value and marketability. None Known

UNIT IMPROVEMENTS

Unit Charge: $ N/A per month X 12 = $ N/A per year. Annual assessment charge per year per SF of GLA = $ N/A

Utilities included in the Unit Charge: ☒ None ☐ Heat ☐ Air Conditioning ☐ Electricity ☐ Gas ☐ Water ☐ Sewer ☐ Cable ☐ Other Apartment

Source(s) used for physical characteristics of property: ☒ New Inspection ☒ Previous Appraisal Files ☒ MLS ☒ Assessment and Tax Records ☒ Prior Inspection ☒ Property Owner ☒ Other (describe) Master Deed

Data Source for Gross Living Area Master Deed

General Description		Exterior Description		Foundation ☐ N/A		Basement ☒ N/A		Heating	
Floor Location	1st Floor	Foundation	CC Slab	Slab	Concrete	Area Sq. Ft.		Type	FWA
# of Levels	1 Story	Exterior Walls	Hardi Plank	Crawl Space	None	% Finished		Fuel	Electric
Design (Style)	1 Story	Roof Surface	Comp Shingles	Basement	None	Ceiling			
☒ Existing	☐ Proposed	Gutters & Dwnspts.	Yes/Yes	Sump Pump	☐ N/A	Walls		Cooling	
☐ Under Construction		Window Type	Vinyl Insulated	Dampness	☐ NoneNoted	Floor		Central	Yes
Actual Age (Yrs.)	Built 2000	Storm/Screens	No / Yes	Settlement	None Noted	Outside Entry		Other	
Effective Age (Yrs.)	3 yrs			Infestation	None Noted				

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INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA: 08 -0004
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UNIT IMPROVEMENTS (continued)

Interior Description		Appliances		Attic ☐ N/A		Amenities		Car Storage ☐ None	
Floors	Carpet/Vinyl/Average	Refrigerator	☒	Stairs	☐	Fireplace(s) #	Woodstove(s) #	☐ Garage	#
Walls	Drywall/Average	Range/Oven	☒	Drop Stair	☐	Patio		☐ Covered	#
Trim/Finish	Wood/Average	Disposal	☐	Scuttle	☐	Deck		☒ Open	# ***See
Bath Floor	Vinyl / Average	Dishwasher	☒	Doorway	☐	Porch	See Below	Total # of cars	Adenda**
Bath Wainscot	Fiberglass/Average	Fan/Hood	☐	Floor	☐	Fence		☐ Assigned	
Doors	Hollow Core/Average	Microwave	☒	Heated	☐	Pool	Community	☐ Owned	
		Washer/Dryer	☐	Finished	☐	Balcony	See Below	Space #(s)	

Finished area above grade contains: 4 Rooms 1 Bedrooms 1 Bath(s) 753 Square Feet of Gross Living Area Above Grade

Are the heating and cooling for the individual units separately metered? ☒ Yes ☐ No (If No, describe)

Additional features: This is the Dogwood floor plan. 20 of the units with this floor plan are located on the first floor, with a screen porch. 20 of the units with this floor plan are located on the second floor with a balcony. See Below.

Describe the condition of the property (including physical, functional and external obsolescence): Features include ceramic tile foyer, carpet and vinyl flooring throughout, washer and dryer connections, walk-in closets. Kitchen has formica countertops, white cabinets, white electric appliances including stove, dishwasher and microwave. The units are in average condition. No functional or external obsolescence noted.

INCOME APPROACH

INCOME APPROACH TO VALUE (if developed) ☐ The Income Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE RENTAL # 1	COMPARABLE RENTAL # 2	COMPARABLE RENTAL # 3
Address	1100 Legends Club Dr, 1 BR, # 1 Mt. Pleasant, SC 29466	1100 Legends Club Dr. Mt. Pleasant, SC 29466	1563 Oxborough Circle Mt. Pleasant, SC 29466	1304 Old Tabby Ln. Mt. Pleasant, SC 29464
Project / Phase	The Legends / 1	The Legends / 1	Ellington Woods	Eastwood
Proximity to Subject		Same Project	Within 2 Miles	Approximately 6.5 miles
Current Monthly Rent	$ N/A	$ 690	$ 935	$ 950
Rent/GLA	$ /sq.ft.	$ 1.00 /sq.ft.	$ 0.64 /sq.ft.	$ 0.87 /sq.ft.
Rent Control	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No
Data Source(s)	MLS,Public Records	Submitted Rent Rolls	MLS,Public Records	MLS,Public Records
Date of Lease(s)	N/A	Unknown	Unknown	Unknown
Location	The Legends	The Legends	Ellington Woods	Eastwood
View	Typical Interior	Typical Interior	Typical Interior	Typical Interior
Age	Built 2000	Built 2000	Built 2000	Built 2002
Condition	Average	Average	Average	Average
Above Grade Room Count (Total / Bdrms / Baths)	4 / 1 / 1	4 / 1 / 1	5 / 2 / 2	5 / 2 / 2
Gross Living Area	753 sq.ft.	690 sq.ft.	1,465 sq.ft.	1,094 sq.ft.
Utilities Included	None	None	None	None
Parking	Open	Open	Open	Open

Summary of Income Approach (including support for market rent and GRM): The gross rent multiplier and the market rent used is based on competing properties similar to the subject. There were no sales in the subject complex as it was prior to the condo conversion. See Addendum for GRM indicators.

Opinion of Monthly Market Rent $ 700 X Gross Rent Multiplier 150 = $ 105,000 **Indicated Value by Income Approach**

TRANSFER HISTORY

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): Public Records, MLS

1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: The previous transfer of Comparable 1 was at the time of conversion from apartments to condos.
Date: N/A	
Price: N/A	
Source(s): MLS, Public Records	
2nd Prior Subject Sale/Transfer	
Date:	
Price:	
Source(s):	

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INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA: 08 -0004
File No.: 08/599-00-00-XXX

SALES COMPARISON APPROACH

SALES COMPARISON APPROACH TO VALUE (if developed) ☐ The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	1100 Legends Club Dr, 1 BR, # 1 Mt. Pleasant, SC 29466	1481 Center St., Unit 707 Mt. Pleasant, SC 29464		1873-C Montclair Dr. Mt. Pleasant, SC 29464		1323 Kingsford Lane Mt. Pleasant, SC 29466	
Project Phase	The Legends 1	Bay Club Sea Lofts		Montclair		Ellington Woods Buchanon Plan	
Proximity to Subject		Approximately 7 Miles		Approximately 4.5 Miles		Within 2 Miles	
Sale Price	$ N/A		$ 125,000		$ 112,900		$ 137,100
Sale Price/GLA	$ /sq.ft.	$ 156.25 /sq.ft.		$ 111.78 /sq.ft.		$ 84.42 /sq.ft.	
Data Source(s)	MstrDd,Owner,Insp	MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records	
Verification Source(s)	599-00-00-XXX	TMS# 532-16-00-180		TMS# 557-00-00-319		TMS# 594-10-00-722	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions	N/A N/A	None Known		None Known		None Known	
Date of Sale/Time	N/A	11/23/2004	-13,800	12/2/2003		10/8/2003	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	The Legends	Bay Club	-12,500	Montclair		Ellington Woods	+13,700
HOA Fees ($/Month)	N/A	177		230		160	
Common Elements and Recreational Facilities	Gate,ftnscntr, pool,clbhs,bsctr	Pool,clubhouse tennis court	+6,000	Pool,clubhouse tennis court	+6,000	Pool,clubhouse tennis court	+6,000
Floor Location	1st Floor	2nd Floor		2nd Floor		1st Floor	
View	Typical Interior	Typical		Typical		Typical	
Design (Style)	1 Story	1 Story		1 Story		1 Story	
Quality of Construction	Average	Average-	+8,000	Average-	+10,100	Average	
Age	Built 2000	Built 1987/Renov.		Built 1985/Renov.		Built 2003	
Condition	Average	Average		Average		New	-2,500
Above Grade Room Count	Total 4 / Bdrms 1 / Baths 1	Total 4 / Bdrms 1 / Baths 1		Total 5 / Bdrms 2 / Baths 2	-5,000	Total 5 / Bdrms 2 / Baths 2	-5,000
Gross Living Area	753 sq.ft.	800 sq.ft.		1,010 sq.ft.	-12,900	1,624 sq.ft.	-43,600
Basement & Finished Rooms Below Grade	N/A	N/A		N/A		N/A	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	CH&A	CH&A		CH&A		CH&A	
Energy Efficient Items	Average	Average		Average		Average	
Parking	Adequate	Adequate		Adequate		Adequate	
Porch/Patio/Deck	Screen Porch	Balcony	+1,500	Balcony	+1,500	Screen Porch	
Fireplace	None	None		None		Fireplace	-2,000
Net Adjustment (Total)		☐ + ☒ -	$ -10,800	☐ + ☒ -	$ -300	☐ + ☒ -	$ -33,400
Adjusted Sale Price of Comparables			$ 114,200		$ 112,600		$ 103,700

Summary of Sales Comparison Approach The comparables used are believed to be the best available. The subject complex was not converted to condos until tax year 2007, therefore, there are no comparables available in the subject complex. There were no sales of 1 bedroom condo units in the Mt. Pleasant area in 2002 or 2003. Comparable 1 sold in 2004 and was adjusted based on a 12% annualized time adjustment. It is considered to be superior in location due to being located very close to Downtown and Sullivan's Island. Comparables 1 and 2 are older complexes that are inferior in quality of construction due to having older standards of construction. Comparables 2 and 3 are larger 2 bedroom units. A condition adjustment was made to Comparable 3 due to being a new unit and a location/neighborhood adjustment has been made due to being located further from area beaches and the downtown area, as well as having off-site shared amenties. All 3 Comparables have inferior common elements due to not being private communities. The appraiser is aware of FNMA guidelines, which state that net adjustments should not exceed 15% and gross adjustments should not exceed 25%. However, this appraisal is not being made for financing purposes, and due to no 1 bedroom units being sold in 2003, this could not be avoided. All 3 sales are considered to be reliable indicators of value and have been considered in my opinion of value.

Indicated Value by Sales Comparison Approach $ 110,000

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INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA: 08 -0004
File No.: 08/599-00-00-XXX

COST APPROACH

COST APPROACH TO VALUE (If developed) ☒ The Cost Approach was not developed for this appraisal.

Summary of Cost Approach: Cost Approach is not Applicable as condominium units are not constructed on an individual basis.

RECONCILIATION

Indicated Value by: Sales Comparison Approach $ 110,000 Cost Approach (If developed) $ N/A Income Approach (If developed) $ 105,000

Final Reconciliation The Sales Comparison Approach is considered to be the most reliable method of valuation of single family homes and condominiums. Condo Unit- Cost Approach is not Applicable as condominium units are not constructed on an individual basis. The Income Approach is supportive.

This appraisal is made ☐ "as is", ☒ subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, ☐ subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: This is a hypothetical appraisal of a condo unit. The subject was an apartment complex as of the effective date of value.

☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: $ 110,000 , as of: 12/31/2003 , which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.

ATTACHMENTS

A true and complete copy of this report contains ____ pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

☒ Scope of Work	☒ Limiting Cond./Certifications	☒ Narrative Addendum	☒ Photograph Addenda	☒ Sketch Addendum
☒ Map Addenda	☐ Additional Sales	☐ Additional Rentals	☒ Flood Addendum	☐ Hypothetical Conditions
☐ Extraordinary Assumptions	☐ Budget Analysis	☐	☐	☐

Client Contact: Charleston County Client Name: Charleston County
E-Mail: assessor@charlestoncounty.org Address:

SIGNATURES

APPRAISER

Angela H. Sawadske

Appraiser Name: Angela H. Sawadske
Company: Charleston County Assessor's Office
Phone: (843) 958-4100 Fax:
E-Mail: asawadske@charlestoncounty.org
Date of Report (Signature): 3/3/2010
License or Certification #: CR 4000 State: SC
Designation: Certified Residential
Expiration Date of License or Certification: 6/30/2012
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 8/21/2007

SUPERVISORY APPRAISER (If required) or CO-APPRAISER (If applicable)

Supervisory or Co-Appraiser Name:
Company:
Phone: Fax:
E-Mail:
Date of Report (Signature):
License or Certification #: State:
Designation:
Expiration Date of License or Certification:
Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection:

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Supplemental Addendum

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

Condo : Subject - Data Source(s), Offering Price(s), Date(s)

MLS, Owner, Master Deed, Public Records, Physical Inspection.
As of the effective date of the appraisal, the subject property was being operated as an apartment complex. This is a hypothetical appraisal to estimate the value of individual units if the subject property had been converted from a multi-family apartment complex to individual condominiums as of the effective date.

Subject Information:

Please note that this appraisal was performed for a standard one bedroom unit. The appraiser chose this unit as a representation of a typical one bedroom condominium unit, which serves as the basis to value other one bedroom units. The Legends complex has four different floor plans consisting of 1 bedroom and 1 bath. As you can see below, each of the units have have minor differences and have been adjusted accordingly. The subject of this appraisal is the Dogwood Plan.

Available 1 bedroom floor plans are:

The Dogwood (40 total units): 753 square feet with a 60 sf screen porch on the 20 first floor units, and a 60 sf balcony on the 20 second floor units. Our recomended value for this floor plan is $110,000.

The Azalea (20 total units): 658 square feet with a 66 square foot screen porch. 16 of these units are located on the 1st floor, and 4 of these units are located on the 2nd floor. The second floor units have a 66 square foot balcony instead of screen porch. Taking the base value of $110,000 and subtracting the difference in square footage (95 sft x $50/sq ft) gives an indicated value of $105,250, which has been rounded to $105,000.

The Azalea Elongated (ELR) (12 total units): 743 square feet with no porches. All 12 of these units are located on the 2nd floor. Taking the base value of $110,000 and subtracting for having no porches, gives an indicated value of $107,000

The Magnolia (8 total units): 836 square feet with a 82 sf screen porch. All 8 of these units are located on the 1st floor and have an attached garage. Taking the base value of $110,000 and adding the difference in square footage (83 sft x $50/sq ft), and adding $20,000 for having an attached garage, gives an indicated value of $134,150, which has been rounded to $134,000.

Project Information:

Parking spaces are not assigned, they are on a first-come, first serve basis.

As of the effective date of value, the property was an apartment complex. Therefore, it was tenant occupied. According to office records, a 2% vacancy was reported as of 12/2003.

Income Approach Information:

Address	Sale Price	Rent	GRM
1195 Village Creek	$106,500	$725/mo.	147
1304 Old Tabby Ln	$139,900	$950/mo.	147
3380 Billings	$171,250	$1050/mo.	163
1500 Dutch Iris	$295,000	$1750/mo.	168

The GRM's range from 147-168. Based on unit type and rent, a GRM of 150 was used.

Subject Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Subject Front

1100 Legends Club Dr, 1 BR, # 1 bed

Sales Price	N/A
Gross Living Area	753
Total Rooms	4
Total Bedrooms	1
Total Bathrooms	1
Location	The Legends
View	Typical Interior
Site	
Quality	Average
Age	Built 2000



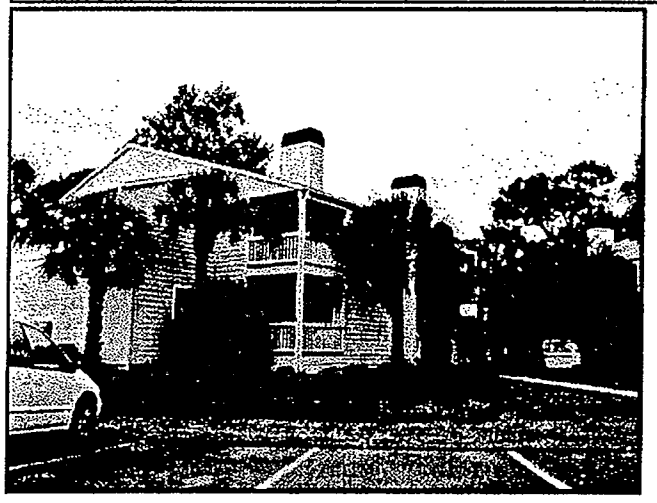
Subject Rear



Subject Street

Comparable Photo Page

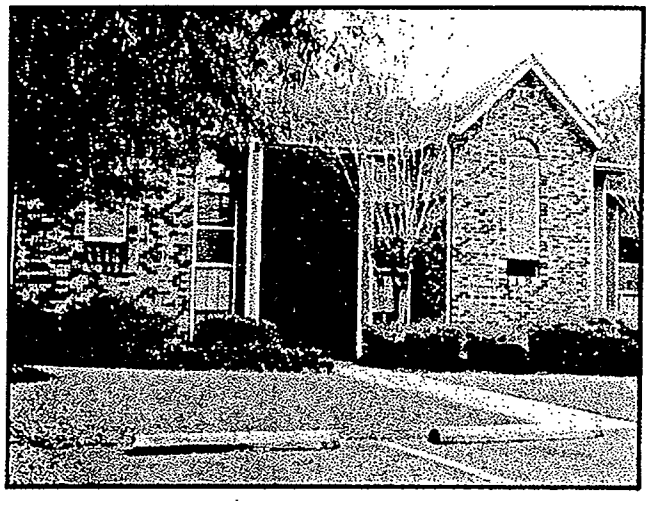
Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Comparable 1

1481 Center St., Unit 707

Prox. to Subject	Approximately 7 Miles
Sales Price	125,000
Gross Living Area	800
Total Rooms	4
Total Bedrooms	1
Total Bathrooms	1
Location	Bay Club
View	Typical
Site	
Quality	Average-
Age	Built 1987/Renov.



Comparable 2

1873-C Montclair Dr.

Prox. to Subject	Approximately 4.5 Miles
Sales Price	112,900
Gross Living Area	1,010
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Montclair
View	Typical
Site	
Quality	Average-
Age	Built 1985/Renov.



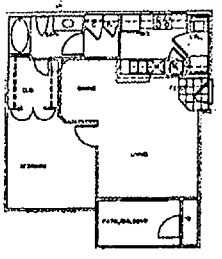
Comparable 3

1323 Kingsford Lane

Prox. to Subject	Within 2 Miles
Sales Price	137,100
Gross Living Area	1,624
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Ellington Woods
View	Typical
Site	
Quality	Average
Age	Built 2003

Sketch-1

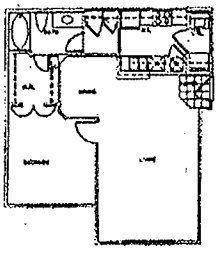
Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Azalea, A-1, 736sf

One bedroom
One bath
Living space 658 sq. ft.
Patio space 66 sq. ft.
Storage space 12 sq. ft.

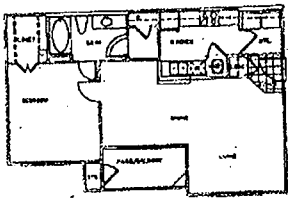
Bedroom-12x14
Living Room-14x16
Dining Area-10x8
Kitchen-8x9
Utility-3x8
Bathroom-10x5
Closet-7x6



Azalea, A-1, 743sf
ELONGATED L/R

One bedroom
One bath
Living space 743 sq. ft.

Bedroom-12x14
Living Room-14x18
Dining Area-8x10
Kitchen-9x8
Utility-8x3
Bathroom-10x5
Closet-5x7



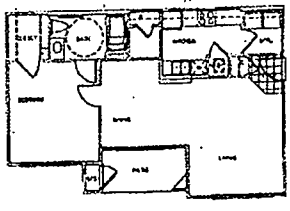
Dogwood, A-2, 819sf

One bedroom
One bath
Living space 753 sq. ft.
Patio space 60 sq. ft.
Storage space 7 sq. ft

Bedroom-12x13
Living Room-13x15
Dining Area-12x11
Kitchen-11x6
Utility-5x8
Bathroom-11x6
Closet-5x6

Sketch-2

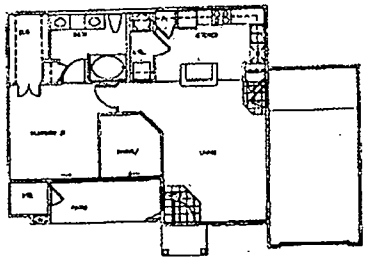
Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Dogwood, A-2, 819sf

Handicap Accessible
One bedroom
One bath
Living space 753 sq. ft.
Patio space 60 sq. ft.
Storage space 7 sq. ft

Bedroom-12x13
Living Room-13x15
Dining Area-12x11
Kitchen-11x6
Utility-5x6
Bathroom-11x6
Closet-6x6



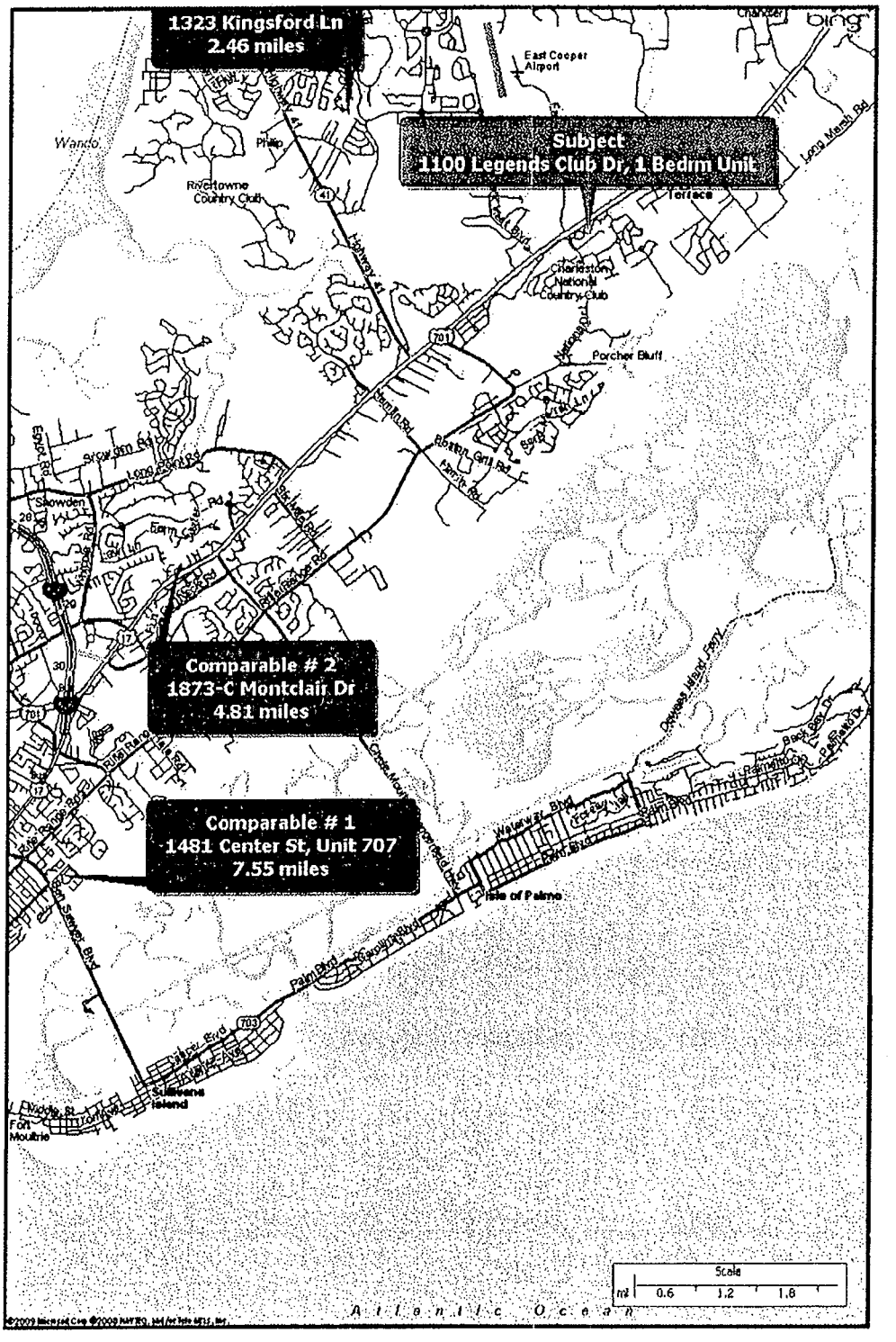
Magnolia, A-3, 939sf
GARAGE

One bedroom
One bath
Direct access garage
Living space 836 sq. ft.
Patio space 82 sq. ft.
Front porch 25 sq. ft.
Storage space 21 sq. ft.
Direct access garage 274 sq. ft.

Bedroom-13x12
Living Room-14x19
Study-8x9
Kitchen-10x15
Utility-3x9
Bathroom-10x9
Closet-9x5

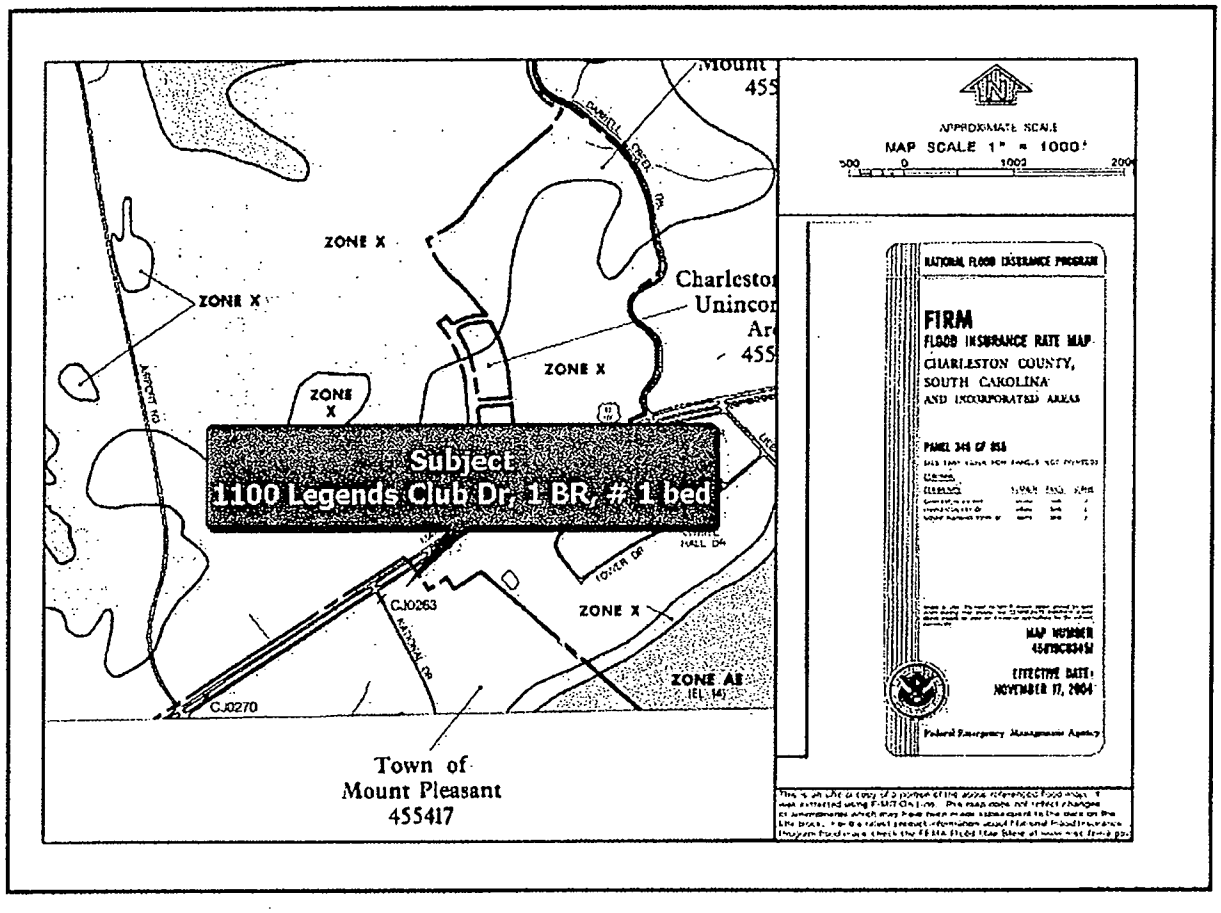
Comparable Sales Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Flood Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



BAA: 08 -0004

File No.: 08/599-00-00-XXX

Assumptions & Limiting Conditions

Property Address: 1100 Legends Club Dr, 1 BR, # 1 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

— The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

— The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.

— If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

— The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

— If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.

— The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

— The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

— The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

— If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.

— An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

— The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.

— An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

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BAA: 08 -0004

File No.: 08/599-00-00-XXX

Definitions & Scope of Work

Property Address: 1100 Legends Club Dr, 1 BR, # 1 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

SCOPE OF WORK

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparables sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

DEFINITION OF MARKET VALUE *:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

Further - South Carolina Code of Law section 12-37-930 states:

"...all property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used.

DATE OF VALUE:

The taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year, S. C. Code Ann. § 12-37-900.

This is a **Retrospective Value Estimate** in conformance with the Uniform Standards of Professional Appraisal Practice as it relates to retrospective value estimates and as the South Carolina Statute is applied.

INTENDED USE OF APPRAISAL

The intended use of this appraisal is to estimate the market value of the subject real property as of the effective date of value for purposes of ad valorem taxation. This appraisal/valuation analysis is being used in support of the Assessor's position relative to the market value of the subject property(s) that is /are being appealed to the Charleston County Board of Assessement Appeals and/or Administrative Law Court. This appraisal is also intended to assist the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court in deliberations regarding issues raised in the appeal.

INTENDED USER(S)

This report is intended as part of a presentation of the Assessor's position to the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court (ALC) in a board conference or contested case hearing. The intended users include: Members of the Charleston County Board of Assessment Appeals, the SC ALC Judge presiding, the appellant/owner, the appellant's representative or legal counsel, members of the Assessor's office scheduled to testify and Charleston County's legal counsel. The appraiser intends to offer oral testimony regarding the hearing of the subject appeal. This testimony is supplementary to the report and without the testimony, the position of the Assessor may not be clear.

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Certifications

BAA: 08 -0004
File No.: 08/599-00-00-XXX

Property Address: 1100 Legends Club Dr, 1 BR, # 1 bed City: Mt. Pleasant State: SC Zip Code: 29466
Client: Charleston County Address: 101 Meeting Street, Charleston, Sc 29402
Appraiser: Angela H. Sawadske Address: 101 Meeting St, Charleston, SC 29401

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:
— The statements of fact contained in this report are true and correct.
— The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
— I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
— I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
— My engagement in this assignment was not contingent upon developing or reporting predetermined results.
— My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
— My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
— I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
— Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
— Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

WORKFILE

The appraiser's work file and the Assessor's files are incorporated into this appraisal report by reference.

SUMMARY OF HIGHEST AND BEST USE

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. Because the site is in the midst of a stable residential neighborhood, there is little likelihood of a zoning change or a variance for non-conforming use.

Client Contact: Charleston County Client Name: Charleston County
E-Mail: assessor@charlestoncounty.org Address: 101 Meeting Street, Charleston, SC 29402

SIGNATURES

APPRAISER

Angela H. Sawadske

Appraiser Name: Angela H. Sawadske
Company: Charleston County Assessor's Office
Phone: (843) 958-4100 Fax:
E-Mail: asawadske@charlestoncounty.org
Date Report Signed: July 22, 2010
License or Certification #: CR 4000 State: SC
Designation: Certified Residential
Expiration Date of License or Certification: 6/30/2012
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 8/21/2007

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)

Supervisory or Co-Appraiser Name:
Company:
Phone: Fax:
E-Mail:
Date Report Signed:
License or Certification #: State:
Designation:
Expiration Date of License or Certification:
Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection:

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Appraiser's Qualifications

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 1 BR, # 1 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

APPRAISER'S QUALIFICATIONS

NAME: Angela H. Sawadske

POSITION: Senior Staff Appraiser

STATE CERTIFIED REAL ESTATE APPRAISER: SC CR 4000

DATE EMPLOYED: June 30, 2003

EDUCATIONAL BACKGROUND: Bachelor of Science, College of Charleston

REAL ESTATE COURSES:

Trident Technical College
L-1: Principles of Real Estate Appraisals
L-2: Market Data Analysis
L-3: Uniform Standards of Professional Appraisal Practice
CR: Residential Analysis -Small Income Property Appraisals

Spearman Center for Professional Education
C-1: Basic Income Property Appraising
C-2: Advanced Income Property Appraising
C-3: Applied Income Property Valuation
Appraisal Report Writing: Clear, Concise and Correct

SC Chapter Appraisal Institute
Real Estate Disclosure
Business Practices and Ethics
Land Valuation Adjustment Procedures

Philip Urso Seminars
Selecting and Supporting Market Adjustments
A Fresh Look at Correctly Completing Fannie Mae Forms

IAAO
Uniform Standards of Professional Appraisal Practice Update
Reconstructing Income/Expense Statements

McKissock
Appraising High-Value Residential Properties

South Carolina Department of Revenue
Real Property Valuation Reform Act with 2007 Amendments
Legal Terminology & Non-Tax Statutes for Taxing Officials
Assessable Transfers of Interest
Legal Residence from a Lawyer's Perspective
History of Ad Valorem Valuation

PREVIOUS EMPLOYMENT: Atlantic Appraisals, 1998-2003

PROFESSIONAL AFFILIATIONS: South Carolina Association of Assessing Officials (SCAAO)

Assessors Exchange Summary

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

ASSESSOR'S EXCHANGE

Enclosed find copies of documents, including appraisals, property sales, and a brief description of any other evidence that will be introduced or submitted by the Assessor. Also enclosed are the names of the witnesses who will testify, and a brief statement of what the witnesses will be expected to establish or prove.

PARCEL DATA

AS OF DECEMBER 31, 2003 FOR TAX YEAR 2008

Owner:	**Keystone Legends I LP**		
Agent:			
Parcel ID Number:	**08/599-00-00-XXX**	**Tax District:**	**2-1**
Property Location/Address:	**1100 Legends Club Dr, 2 BR, # 2 bed**		
Legal Description:	**2 bedroom unit, Jasmine Plan, The Legends *** See Addenda*****		

OPINION OF VALUE

	Appellant		Assessor	
	FMV(1)	ERA(2)	FMV(1)	ERA(2)
Land Value				
Building Value				
Improved Value				
TOTAL				

Comments: **See Attached: "Issues Surrounding the Case"**

Witness(es) to Testify: Angela H. Sawadske
Senior Staff Appraiser

Toy Glennon, Assessor

July 22, 2010
Date

Note:

(1) FMV = Full (100%) Market Value **(Estimate as of 12/31/03)**

(2) ERA = Equity Relationship of Appellant's Property to Other Similar Properties in the Area

BAA#: **BAA 08-0004**
PID#: **08/599-00-00-XXX**

PETITIONER'S EXHIBIT 2
0226

PENGAD 800-631-6989

Issues Surrounding the Case

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

Issues Surrounding the Case:

The Legends is a 200 unit condominium complex located in Mt. Pleasant, located in front of the Charleston National subdivision. It is a private gated community with a pool, clubhouse, fitness center, business center, tennis courts and a playground. The project was originally an apartment complex that was converted to condominiums by master deed D581-121 filed April 27, 2006. For tax year 2007, each condo unit was valued individually and notices were mailed informing the owners of the new values. For tax year 2008 one of the owners has appealed, requesting that 121 of the 143 units he owns be valued as an apartment complex. There are no outstanding appeals from the owners of the other 57 units in the complex for tax year 2008.

The Legends has a total of 11 floor plans. For the Administrative Law Court, an appraisal has been submitted for a typical 1 bedroom, 2 bedroom and 3 bedroom unit with effective dates of 12/31/2003 and 12/31/2007. This was done in order to verify if the 2007 values had dropped below the 2003 values. After completing these appraisals it was confirmed that 2007 values had not fallen below 2003 values, but the appraiser would recommend that the individual 2003 values be lowered according to the spreadsheet below.

Floor Plan	Pre-Appeal 2003 Values	12/31/2007 Lien Date Value	Recommended 2003 Values
1 Bedroom Units			
Azalea Plan (13)	$115,000	$140,000	$105,000
Azalea Elongated Plan(10)	$120,000	$143,000	$107,000
Dogwood Plan (33)	$120,000	$146,000	$110,000
Magnolia Garage Plan (5)	$145,000	$171,000	$134,000
2 Bedroom Units			
Jasmine Plan (2)	$175,000	$193,000	$148,000
Jasmine Elongated Plan(1)	$180,000	$199,000	$156,000
Jasmine Garage Plan (6)	$200,000	$216,000	$170,000
Oleander Plan (38)	$182,000	$202,000	$157,000
Oleander Garage Plan (1)	$205,000	$222,000	$175,000
3 Bedroom Units			
Camellia Plan (9)	$205,000	$215,000	$170,000
Camellia Garage Plan (3)	$230,000	$238,000	$192,000

APPRAISAL OF REAL PROPERTY



LOCATED AT

1100 Legends Club Dr, 2 BR, # 2 bed
Mt. Pleasant, SC 29466
2 bedroom unit, Jasmine Plan, The Legends *** See Addenda***

FOR

Ad Valorem Tax Purposes
N/A

OPINION OF VALUE

148,000

AS OF

12/31/2003

BY

Angela H. Sawadske
Charleston County Assessor's Office

Charleston, SC
(843) 958-4100
asawadske@charlestoncounty.org

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA 08-0004

File No.: 08/599-00-00-XXX

SUBJECT

Property Address: 1100 Legends Club Dr, 2 BR | Unit #: 2 bed | City: Mt. Pleasant | State: SC

Zip Code: 29466 | County: Charleston | Legal Description: 2 bedroom unit, Jasmine Plan, The Legends *** See Addenda***

Assessor's Parcel #: 599-00-00-XXX *** See Addenda***

Tax Year: 2008 | R.E. Taxes: $ Est $1950 | Special Assessments: $ None Noted | Borrower (if applicable): N/A

Current Owner of Record: Keystone Legends I LP | Occupant: ☐ Owner ☒ Tenant (Market Rent) ☐ Tenant (Regulated Rent) ☐ Vacant

Project Type: ☐ Condominium ☒ Other (describe) Apartment Complex as of effective date of appr | HOA: $ N/A ☐ per year ☐ per month

Market Area Name: Mount Pleasant | Map Reference: 599-00-00-XX | Census Tract: 46.01

Project Name: The Legends | Phase: 1

ASSIGNMENT

The purpose of this appraisal is to develop an opinion of: ☒ Market Value (as defined), or ☐ other type of value (describe) For Ad Valorem Taxes

This report reflects the following value (if not Current, see comments): ☐ Current (the Inspection Date is the Effective Date) ☒ Retrospective ☐ Prospective

Approaches developed for this appraisal: ☒ Sales Comparison Approach ☐ Cost Approach ☒ Income Approach (See Reconciliation Comments and Scope of Work)

Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)

Intended Use: See Addenda

Intended User(s) (by name or type): See Addenda

Client: Charleston County | Address:

Appraiser: Angela H. Sawadske | Address: 101 Meeting Street, Charleston, SC 29401

MARKET AREA DESCRIPTION

Location:	☐ Urban	☒ Suburban	☐ Rural	
Built up:	☐ Over 75%	☒ 25-75%	☐ Under 25%	
Growth rate:	☐ Rapid	☒ Stable	☐ Slow	
Property values:	☐ Increasing	☒ Stable	☐ Declining	
Demand/supply:	☐ Shortage	☒ In Balance	☐ Over Supply	
Marketing time:	☐ Under 3 Mos.	☒ 3-6 Mos.	☐ Over 6 Mos.	

Predominant Occupancy

- ☐ Owner
- ☒ Tenant
- ☐ Vacant (0-5%)
- ☐ Vacant (>5%)

Condominium Housing

PRICE $(000)		AGE (yrs)
97	Low	1
248	High	20
155	Pred	3

Present Land Use

One-Unit	%
2-4 Unit	%
Multi-Unit	99 %
Comm'l	1 %
	%

Change in Land Use

☒ Not Likely ☐ Likely * ☐ In Process *

* To:

Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Typical financing is conventional or cash. It is typical of the market for sellers to pay buyers closing costs. Average time on market is 3-9 months.

PROJECT SITE DESCRIPTION

Zoning Classification: Residential | Description: PD - Planned Development

Zoning Compliance: ☒ Legal ☐ Legal nonconforming (grandfathered) ☐ Illegal ☐ No zoning

Ground Rent (if applicable) $ N/A/ | Comments: N/A

Highest & Best Use as improved (or as proposed per plans & specifications): ☒ Present use, or ☐ Other use (explain)

Actual Use as of Effective Date: Apartment Complex | Use as appraised in this report: Residential Condominium

Summary of Highest & Best Use: The current use as a residential condominium is the highest and best use of this property. Current zoning allows this use and it is physically, and legally permissable.

Utilities	Public	Other	Provider/Description
Electricity	☒	☐	
Gas	☒	☐	
Water	☒	☐	
Sanitary Sewer	☒	☐	
Storm Sewer	☐	☐	

Off-site Improvements	Type	Public	Private
Street	Asphalt	☐	☒
Curb/Gutter	Concrete	☐	☒
Sidewalk	Concrete	☐	☒
Street Lights	Typical Overhead	☐	☒
Alley	None	☐	☐

Density	8.6 units/acre
Size	200 units / 23.22 acres +/-
Topography	Level at Grade
View	Typical Interior

Other site elements: ☒ Inside Lot ☐ Corner Lot ☐ Cul de Sac ☐ Underground Utilities ☐ Other (describe)

FEMA Spec'l Flood Hazard Area ☐ Yes ☒ No | FEMA Flood Zone Zone X | FEMA Map # 45019C0345J | FEMA Map Date 11/17/04

Site Comments: Final determination of flood zone should lie in survey. No adverse easements or encroachments noted at the time of inspection.

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BAA 08-0004

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

File No.: 08/599-00-00-XXX

PROJECT INFORMATION

Data source(s) for project information: Physical Inspection, Master Deed, Owner, MLS

Project Description: ☐ Detached ☐ Row or Townhouse ☐ Garden ☐ Mid-Rise ☐ High-Rise ☒ Other (describe) Low-Rise

General Description of Project				Subject Phase	#	If Project Completed	#	If Project Incomplete	#
# of Stories	Two	Exterior Walls	Hardi Plank	Units	200	Phases	1	Planned Phases	N/A
# of Elevators	N/A	Roof Surface	Comp Shingles	Units Completed	200	Units	200	Planned Units	N/A
☒ Existing ☐ Proposed ☐ Und.Cons.		Total # Parking	***See	Units For Sale	N/A	Units for Sale	N/A	Units for Sale	N/A
Design (Style)	Low-Rise	Ratio (spaces/unit)	Below***	Units Sold	N/A	Units Sold	N/A	Units Sold	N/A
Actual Age (Yrs.)	Built 2000	Parking Type(s)	Open	Units Rented	196	Units Rented	196	Units Rented	N/A
Effective Age (Yrs.)	3 Years	Guest Parking	Included	Owner Occup. Units	N/A	Owner Occup. Units	N/A	Owner Occup. Units	N/A

Project Primary Occupancy: ☐ Principle Residence ☐ Second Home or Recreational ☒ Tenant *** See Addenda ***

Is the developer/builder in control of the Homeowners' Association (HOA)? ☒ Yes ☐ No

Management Group: ☐ Homeowners' Association ☒ Developer ☐ Management Agent (name of management agent or company): Keystone Legends I LP, owned all 200 units in the complex as of the effective date of value.

Was the project created by the conversion of existing building(s) into a condominium? ☒ Yes ☐ No If Yes, describe the original use and date of conversion.
The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006.

Are CC&Rs applicable? ☒ Yes ☐ No ☐ Unknown Have the documents been reviewed? ☐ Yes ☒ No Comments:

Project Comments (condition, quality of construction, completion status, etc.): The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006. The complex is average quality of construction and average condition for its age. Common elements include privacy gate entry, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House. The project is complete. The complex was constructed with each unit having seperate HVAC, electric meters, water meters, and washer/dryer connections thus making the cost to convert the units from multi-family to condominiums minimal.

Common Elements and Recreational Facilities: Common elements include private entry gate, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House.

PROJECT ANALYSIS

Summary of condominium project budget analysis for the current year (if analyzed): Due to the property being a multi-family apartment complex as of the effective date, there is no condominium budget to analyze.

Other fees for the use of the project facilities (other than regular HOA charges): None Noted

Compared to other competitive projects of similar quality and design, the subject unit charge appears ☐ High ☒ Average ☐ Low (If High or Low, describe)
Due to this being a hypothetical appraisal, there are no current unit charges to analyze.

Are there any special or unusual characteristics of the project (based on the condominium documents, HOA meetings, or other information) known to the appraiser?
☐ Yes ☒ No If Yes, describe and explain the effect on value and marketability. None Known

UNIT IMPROVEMENTS

Unit Charge: $ N/A per month X 12 = $ N/A per year. Annual assessment charge per year per SF of GLA = $ N/A

Utilities included in the Unit Charge: ☒ None ☐ Heat ☐ Air Conditioning ☐ Electricity ☐ Gas ☐ Water ☐ Sewer ☐ Cable ☐ Other Apartment

Source(s) used for physical characteristics of property: ☒ New Inspection ☒ Previous Appraisal Files ☒ MLS ☒ Assessment and Tax Records ☒ Prior Inspection ☒ Property Owner ☒ Other (describe) Master Deed

Data Source for Gross Living Area Master Deed

General Description		Exterior Description		Foundation ☐ N/A		Basement ☒ N/A		Heating	
Floor Location	2nd Floor	Foundation	CC Slab	Slab	Concrete	Area Sq. Ft.		Type	FWA
# of Levels	1 Story	Exterior Walls	Hardi Plank	Crawl Space	None	% Finished		Fuel	Electric
Design (Style)	1 Story	Roof Surface	Comp Shingles	Basement	None	Ceiling			
☒ Existing ☐ Proposed		Gutters & Dwnspts.	Yes/Yes	Sump Pump ☐ N/A		Walls		Cooling	
☐ Under Construction		Window Type	Vinyl Insulated	Dampness ☐ NoneNoted		Floor		Central	Yes
Actual Age (Yrs.)	Built 2000	Storm/Screens	No / Yes	Settlement	None Noted	Outside Entry		Other	
Effective Age (Yrs.)	3 yrs			Infestation	None Noted				

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BAA 08-0004

File No.: 08/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

UNIT IMPROVEMENTS (continued)

Interior Description		Appliances		Attic ☐ N/A		Amenities		Car Storage ☐ None	
Floors	Carpet/Vinyl/Average	Refrigerator	☒	Stairs	☐	Fireplace(s) #	Woodstove(s) #	☐ Garage	#
Walls	Drywall/Average	Range/Oven	☒	Drop Stair	☐	Patio		☐ Covered	#
Trim/Finish	Wood/Average	Disposal	☐	Scuttle	☐	Deck		☒ Open	# ***See
Bath Floor	Vinyl / Average	Dishwasher	☒	Doorway	☐	Porch	See Below	Total # of cars	Adenda**
Bath Wainscot	Fiberglass/Average	Fan/Hood	☐	Floor	☐	Fence		☐ Assigned	
Doors	Hollow Core/Average	Microwave	☒	Heated	☐	Pool	Community	☐ Owned	
		Washer/Dryer	☒	Finished	☐	Balcony	See Below	Space #(s)	

Finished area above grade contains: 5 Rooms 2 Bedrooms 2 Bath(s) 1,030 Square Feet of Gross Living Area Above Grade

Are the heating and cooling for the individual units separately metered? ☒ Yes ☐ No (If No, describe)

Additional features: This is the regular Jasmine floor plan. All of the units with this floor plan (8) are located on the second floor with all but one having a balcony. See Below.

Describe the condition of the property (including physical, functional and external obsolescence): Features include ceramic tile foyer, carpet and vinyl flooring throughout, washer and dryer connections, walk-in closets. Kitchen has formica countertops, white cabinets, white electric appliances including stove, dishwasher and microwave. The units are in average condition. No functional or external obsolescence noted.

INCOME APPROACH

INCOME APPROACH TO VALUE (if developed) ☐ The Income Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE RENTAL # 1	COMPARABLE RENTAL # 2	COMPARABLE RENTAL # 3
Address	1100 Legends Club Dr, 2 BR, # 2 Mt. Pleasant, SC 29466	1100 Legends Club Dr. Mt. Pleasant, SC 29466	1563 Oxborough Circle Mt. Pleasant, SC 29466	1100 Legends Club Dr. Mt. Pleasant, SC 29466
Project	The Legends	The Legends	Ellington Woods	The Legends
Phase	1	1		1
Proximity to Subject		Same Project	Within 2 Miles	Same Project
Current Monthly Rent	$ N/A	$ 975	$ 935	$ 1,010
Rent/GLA	$ /sq.ft.	$ 0.95 /sq.ft.	$ 0.64 /sq.ft.	$ 0.86 /sq.ft.
Rent Control	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No
Data Source(s)	MLS,Public Records	Submitted Rent Rolls	MLS,Public Records	Submitted Rent Rolls
Date of Lease(s)	N/A	Unknown	Unknown	Unknown
Location	The Legends	The Legends	Ellington Woods	The Legends
View	Typical Interior	Typical Interior	Typical Interior	Typical Interior
Age	Built 2000	Built 2000	Built 2000	Built 2000
Condition	Average	Average	Average	Average
Above Grade Room Count (Total / Bdrms / Baths)	5 / 2 / 2	5 / 2 / 2	5 / 2 / 2	5 / 2 / 2
Gross Living Area	1,030 sq.ft.	1,030 sq.ft.	1,465 sq.ft.	1,176 sq.ft.
Utilities Included	None	None	None	None
Parking	Open	Open	Open	Open

Summary of Income Approach (including support for market rent and GRM): The gross rent multiplier and the market rent used is based on competing properties similar to the subject. There were no sales in the subject complex as it was prior to the condo conversion. See Addendum for GRM indicators.

Opinion of Monthly Market Rent $ 975 X Gross Rent Multiplier 150 = $ 146,250 Indicated Value by Income Approach

TRANSFER HISTORY

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): Public Records, MLS

1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: There were no prior transfers of the subject or the comparables within one year of the effective date of this appraisal.
Date: N/A	
Price: N/A	
Source(s): MLS, Public Records	
2nd Prior Subject Sale/Transfer	
Date:	
Price:	
Source(s):	

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BAA 08-0004

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

File No.: 08/599-00-00-XXX

SALES COMPARISON APPROACH

SALES COMPARISON APPROACH TO VALUE (if developed) ☐ The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	1100 Legends Club Dr, 2 BR, # 2 Mt. Pleasant, SC 29466	1438 Belcourt Lane Mt. Pleasant, SC 29466		1523 Oxborough Circle Mt. Pleasant, SC 29466		1861 Montclair Mt. Pleasant, SC 29464	
Project / Phase	The Legends / 1	Ellington Woods Ashford II Plan		Ellington Woods Ashford Plan		Montclair	
Proximity to Subject		Within 2 Miles		Within 2 Miles		Approximately 4.5 Miles	
Sale Price	$ N/A		$ 156,200		$ 149,900		$ 151,591
Sale Price/GLA	$ /sq.ft.	$ 95.65 /sq.ft.		$ 100.33 /sq.ft.		$ 126.33 /sq.ft.	
Data Source(s)	MstrDd,Owner,Insp	MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records	
Verification Source(s)	599-00-00-XXX	TMS# 594-10-00-627		TMS# 594-10-00-563		TMS# 557-00-00-177	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions	N/A N/A	Conventional		Conventional		Conventional	
Date of Sale/Time	N/A	11/26/2003		11/24/2003		11/19/2003	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	The Legends	Ellington/Inferior	+15,000	Ellington/Inferior	+15,000	Montclair	
HOA Fees ($/Month)	N/A	145		135		230	
Common Elements and Recreational Facilities	Gate,fitnesscntr, pool,clbhs,bsctr	Pool,clubhouse tennis court	+7,500	Pool,clubhouse tennis court	+7,500	Pool,clubhouse tennis court	+7,500
Floor Location	2nd Floor	2nd Floor		1st Floor		1st Floor	
View	Typical Interior	Typical		Typical		Typical	
Design (Style)	1 Story	1 Story		1 Story		2 Story	
Quality of Construction	Average	Average		Average		Average-	+12,000
Age	Built 2000	Built 2001		Built 2000		Built 1985/Renov.	
Condition	Average	Average		Average		Average	
Above Grade Room Count (Total / Bdrms / Baths)	5 / 2 / 2	5 / 2 / 2		5 / 2 / 2		5 / 2 / 2	
Gross Living Area	1,030 sq.ft.	1,633 sq.ft.	-30,200	1,494 sq.ft.	-23,200	1,200 sq.ft.	-8,500
Basement & Finished Rooms Below Grade	N/A	N/A		N/A		N/A	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	CH&A	CH&A		CH&A		CH&A	
Energy Efficient Items	Average	Average		Average		Average	
Parking	Adequate	Adequate		Adequate		Adequate	
Porch/Patio/Deck	Balcony	Screen Porch	-1,500	Screen Porch	-1,500	Patio	
Net Adjustment (Total)		☐ + ☒ -	$ -9,200	☐ + ☒ -	$ -2,200	☒ + ☐ -	$ 11,000
Adjusted Sale Price of Comparables			$ 147,000		$ 147,700		$ 162,591

Summary of Sales Comparison Approach: The comparables used are believed to be the best available. The subject complex was not converted to condos until tax year 2007, therefore, there are no comparables available in the subject complex as of the effective date of value. All 4 comparables are located in nearby competing condominium complexes. They all have 2 bedrooms and 2 baths, are larger than the subject and have been adjusted accordingly. A location/neighborhood adjustment has been made to comparables 1, 2 and 4, due to being located further from area beaches and the downtown area, as well as having off-site shared amenities. Comparable 3 is an older complex that is inferior in quality of construction due to having older standards of construction. A condition adjustment was made to Comparable 4 due to being a new unit. All 4 Comparables have inferior common elements due to not being private communities. All 4 comparables are considered to be reliable indicators of fair market value and have been considered in my opinion of value.

Indicated Value by Sales Comparison Approach $ 148,000

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BAA 08-0004

File No.: 08/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

COST APPROACH

COST APPROACH TO VALUE (if developed) ☒ The Cost Approach was not developed for this appraisal.

Summary of Cost Approach: Cost Approach is not applicable as condominium units are not constructed on an individual basis.

RECONCILIATION

Indicated Value by: Sales Comparison Approach $ 148,000 Cost Approach (if developed) $ N/A Income Approach (if developed) $ 146,250

Final Reconciliation The Sales Comparison Approach is considered to be the most reliable method of valuation of single family homes and condominiums. Cost Approach is not applicable as condominium units are not constructed on an individual basis. The Income Approach is supportive.

This appraisal is made ☐ "as is", ☒ subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, ☐ subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: This is a hypothetical appraisal of a condo unit. The subject was an apartment complex as of the effective date of value.

☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: $ 148,000 , as of: 12/31/2003 , which is the effective date of this appraisal.
If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.

ATTACHMENTS

A true and complete copy of this report contains 19 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

☒ Scope of Work	☒ Limiting Cond./Certifications	☒ Narrative Addendum	☒ Photograph Addenda	☒ Sketch Addendum
☒ Map Addenda	☐ Additional Sales	☐ Additional Rentals	☒ Flood Addendum	☐ Hypothetical Conditions
☐ Extraordinary Assumptions	☐ Budget Analysis	☐	☐	☐

SIGNATURES

Client Contact: Charleston County Client Name: Charleston County

E-Mail: assessor@charlestoncounty.org Address:

APPRAISER

Appraiser Name: Angela H. Sawadske
Company: Charleston County Assessor's Office
Phone: (843) 958-4100 Fax:
E-Mail: asawadske@charlestoncounty.org
Date of Report (Signature): July 22, 2010
License or Certification #: CR 4000 State: SC
Designation: Certified Residential
Expiration Date of License or Certification: 6/30/2012
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 8/21/2007

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)

Supervisory or Co-Appraiser Name:
Company:
Phone: Fax:
E-Mail:
Date of Report (Signature):
License or Certification #: State:
Designation:
Expiration Date of License or Certification:
Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection:

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BAA 08-0004

Assumptions & Limiting Conditions

File No.: 08/599-00-00-XXX

Property Address: 1100 Legends Club Dr, 2 BR, # 2 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

— The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

— The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.

— If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

— The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

— If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.

— The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

— The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

— The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

— If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.

— An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

— The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.

— An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

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BAA 08-0004

Definitions & Scope of Work

File No.: 08/599-00-00-XXX

Property Address: 1100 Legends Club Dr, 2 BR, # 2 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

SCOPE OF WORK

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparables sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

DEFINITION OF MARKET VALUE *:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

Further - South Carolina Code of Law section 12-37-930 states:

"...all property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used.

DATE OF VALUE:

The taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year, S. C. Code Ann. § 12-37-900.

This is a **Retrospective Value Estimate** in conformance with the Uniform Standards of Professional Appraisal Practice as it relates to retrospective value estimates and as the South Carolina Statute is applied.

INTENDED USE OF APPRAISAL

The intended use of this appraisal is to estimate the market value of the subject real property as of the effective date of value for purposes of ad valorem taxation. This appraisal/valuation analysis is being used in support of the Assessor's position relative to the market value of the subject property(s) that is /are being appealed to the Charleston County Board of Assessement Appeals and/or Administrative Law Court. This appraisal is also intended to assist the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court in deliberations regarding issues raised in the appeal.

INTENDED USER(S)

This report is intended as part of a presentation of the Assessor's position to the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court (ALC) in a board conference or contested case hearing. The intended users include: Members of the Charleston County Board of Assessment Appeals, the SC ALC Judge presiding, the appellant/owner, the appellant's representative or legal counsel, members of the Assessor's office scheduled to testify and Charleston County's legal counsel. The appraiser intends to offer oral testimony regarding the hearing of the subject appeal. This testimony is supplementary to the report and without the testimony, the position of the Assessor may not be clear.

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BAA 08-0004

File No.: 08/599-00-00-XXX

Certifications

Property Address: 1100 Legends Club Dr, 2 BR, # 2 bed		City: Mt. Pleasant	State: SC	Zip Code: 29466
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

— The statements of fact contained in this report are true and correct.

— The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

— I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

— I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

— My engagement in this assignment was not contingent upon developing or reporting predetermined results.

— My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

— My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.

— I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.

— Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.

— Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

WORKFILE

The appraiser's work file and the Assessor's files are incorporated into this appraisal report by reference.

SUMMARY OF HIGHEST AND BEST USE

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. Because the site is in the midst of a stable residential neighborhood, there is little likelihood of a zoning change or a variance for non-conforming use.

Angela H Sawadske

SIGNATURES

Client Contact: Charleston County		Client Name: Charleston County	
E-Mail: assessor@charlestoncounty.org		Address: 101 Meeting Street, Charleston, SC 29402	

APPRAISER

Appraiser Name: Angela H. Sawadske
Company: Charleston County Assessor's Office
Phone: (843) 958-4100 Fax:
E-Mail: asawadske@charlestoncounty.org
Date Report Signed: July 22, 2010
License or Certification #: CR 4000 State: SC
Designation: Certified Residential
Expiration Date of License or Certification: 6/30/2012
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 8/21/2007

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)

Supervisory or Co-Appraiser Name:
Company:
Phone: Fax:
E-Mail:
Date Report Signed:
License or Certification #: State:
Designation:
Expiration Date of License or Certification:
Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection:

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BAA 08-0004

File No.: 08/599-00-00-XXX

ADDITIONAL COMPARABLE SALES

SALES COMPARISON APPROACH

FEATURE	SUBJECT	COMPARABLE SALE #4		COMPARABLE SALE #5		COMPARABLE SALE #6	
Address	1100 Legends Club Dr, 2 BR, # 2 Mt. Pleasant, SC 29466	1348 Kingsford Lane Mt. Pleasant, SC 29466					
Project / Phase	The Legends / 1	Ellington Woods Buchanan II Plan					
Proximity to Subject		Within 2 Miles					
Sale Price	$ N/A		$ 161,320		$		$
Sale Price/GLA	$ /sq.ft.	$ 99.33 /sq.ft.		$ /sq.ft.		$ /sq.ft.	
Data Source(s)	MstrDd,Owner,Insp	MLS, Master Deed, Pub Records					
Verification Source(s)	599-00-00-XXX	TMS# 594-10-00-719					
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions	N/A N/A	Conventional					
Date of Sale/Time	N/A	8/9/2003					
Rights Appraised	Fee Simple	Fee Simple					
Location	The Legends	Ellington/Inferior	+15,000				
HOA Fees ($/Month)	N/A	145					
Common Elements and Recreational Facilities	Gate,fitnesscntr, pool,clbhs,bsctr	Pool,clubhouse tennis court	+7,500				
Floor Location	2nd Floor	2nd Floor					
View	Typical Interior	Typical					
Design (Style)	1 Story	1 Story					
Quality of Construction	Average	Average					
Age	Built 2000	Built 2003					
Condition	Average	New	-2,500				
Above Grade Room Count	Total 5 / Bdrms 2 / Baths 2	Total 5 / Bdrms 2 / Baths 2		Total / Bdrms / Baths		Total / Bdrms / Baths	
Gross Living Area	1,030 sq.ft.	1,624 sq.ft.	-29,700	sq.ft.		sq.ft.	
Basement & Finished Rooms Below Grade	N/A	N/A					
Functional Utility	Average	Average					
Heating/Cooling	CH&A	CH&A					
Energy Efficient Items	Average	Average					
Parking	Adequate	Adequate					
Porch/Patio/Deck	Balcony	Screen Porch	-1,500				
Net Adjustment (Total)		☐ + ☒ -	$ -11,200	☐ + ☐ -	$	☐ + ☐ -	$
Adjusted Sale Price of Comparables			$ 150,120		$		$

Summary of Sales Comparison Approach

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Subject Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Subject Front

1100 Legends Club Dr, 2 BR, # 2 bed

Sales Price	N/A
Gross Living Area	1,030
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	The Legends
View	Typical Interior
Site	
Quality	Average
Age	Built 2000



Subject Rear



Subject Street

Comparable Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Comparable 1

1438 Belcourt Lane

Prox. to Subject	Within 2 Miles
Sales Price	156,200
Gross Living Area	1,633
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Ellington/Inferior
View	Typical
Site	
Quality	Average
Age	Built 2001



Comparable 2

1523 Oxborough Circle

Prox. to Subject	Within 2 Miles
Sales Price	149,900
Gross Living Area	1,494
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Ellington/Inferior
View	Typical
Site	
Quality	Average
Age	Built 2000



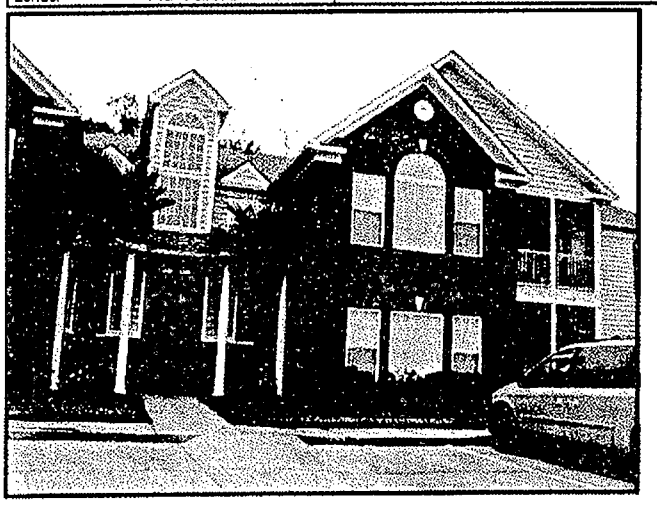
Comparable 3

1861 Montclair

Prox. to Subject	Approximately 4.5 Miles
Sales Price	151,591
Gross Living Area	1,200
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Montclair
View	Typical
Site	
Quality	Average-
Age	Built 1985/Renov.

Comparable Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Comparable 4

1348 Kingsford Lane

Prox. to Subject	Within 2 Miles
Sales Price	161,320
Gross Living Area	1,624
Total Rooms	5
Total Bedrooms	2
Total Bathrooms	2
Location	Ellington/Inferior
View	Typical
Site	
Quality	Average
Age	Built 2003

Comparable 5

Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Comparable 6

Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Supplemental Addendum

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

Condo : Subject - Data Source(s), Offering Price(s), Date(s)

MLS, Owner, Master Deed, Public Records, Physical Inspection.
As of the effective date of the appraisal, the subject property was being operated as an apartment complex. This is a hypothetical appraisal to estimate the value of individual units if the subject property had been converted from a multi-family apartment complex to individual condominiums as of the effective date.

Subject Information:

Please note that this appraisal was performed for a standard two bedroom unit. The appraiser chose this unit as a representation of a typical two bedroom condominium unit, which serves as the basis to value other two bedroom units. The Legends complex has five different floor plans consisting of 2 bedrooms and 2 baths. As you can see below, each of the units have have minor differences and have been adjusted accordingly. The subject of this appraisal is the Jasmine Plan, and is the smallest and most basic model.

The Jasmine Plan (8 units total): These units are located on the second floor, have1,030 square feet and a balcony. Our recomended value for this floor plan is $148,000.

The Jasmine ELR Plan (8 units total): These units are located on the second floor and are an elongated version of the Jasmine. It has 1,154 square feet, and no porches. Taking the base value of $148,000 and adding the difference in square footage (124 sq ft x $50/sq ft) and adding $1500 for having no balcony, gives an indicated value of $155,700, which has been rounded to $156,000.

The Jasmine Garage Plan (8 units total): These units are located on the first floor and have 1,050 square feet, a screen porch, and an attached garage. Taking the base value of $148,000 and adding $1500 for having a screen porch, and adding $20,000 for an attached garage gives an indicated value of $169,500, which has been rounded to $170,000.

The Oleander Plan (64 units total): These units have 1,176 square feet. The 28 first floor units have screen porches and the 36 second floor units have balconies. Taking the base value of $148,000 and adding the difference in square footage (146 sq ft x $50/sq ft) and adding $1500 for having a screen porch, gives an indicated value of $156,800, which has been rounded to $157,000.

The Oleander Garage Plan (8 units total): These units are located on the first floor and have 1,135 square feet, a screen porch and an attached garage. Taking the base value of $148,000 and adding the difference in square footage (105 sq ft x $50/sq ft), adding $1500 for having a screen porch, and adding $20,000 for an attached garage gives an indicated value of $174,750, which has been rounded to $175,000.

Project Information:

Parking spaces are not assigned, they are on a first-come, first serve basis.

As of the effective date of value, the property was an apartment complex. Therefore, it was tenant occupied. According to office records, a 2% vacancy was reported as of 12/2003.

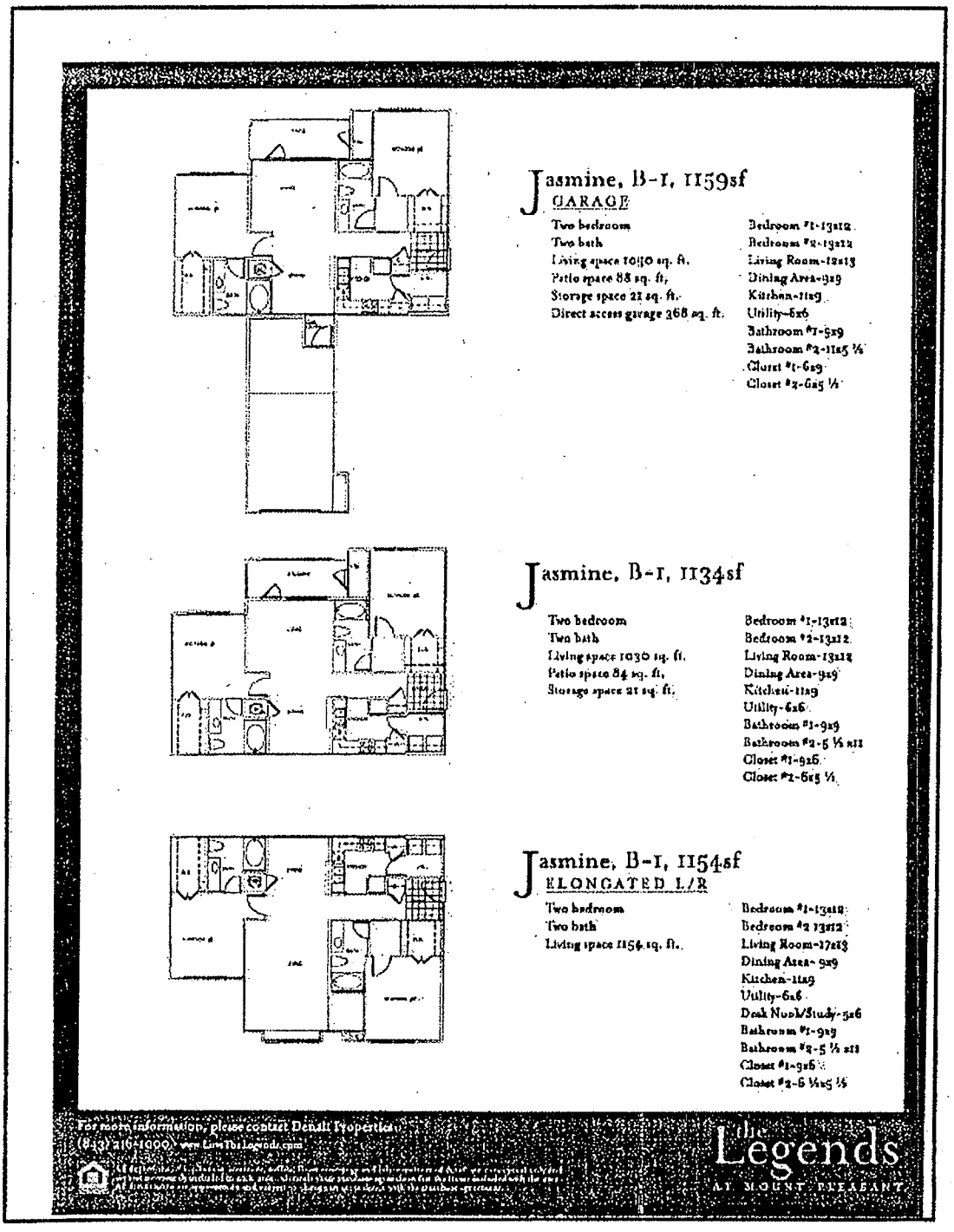
Income Approach Information:

Address	Sale Price	Rent	GRM
1195 Village Creek	$106,500	$725/mo.	147
1304 Old Tabby Ln	$139,900	$950/mo.	147
3380 Billings	$171,250	$1050/mo.	163
1500 Dutch Iris	$295,000	$1750/mo.	168

The GRM's range from 147-168. Based on unit type and rent, a GRM of 150 was used.

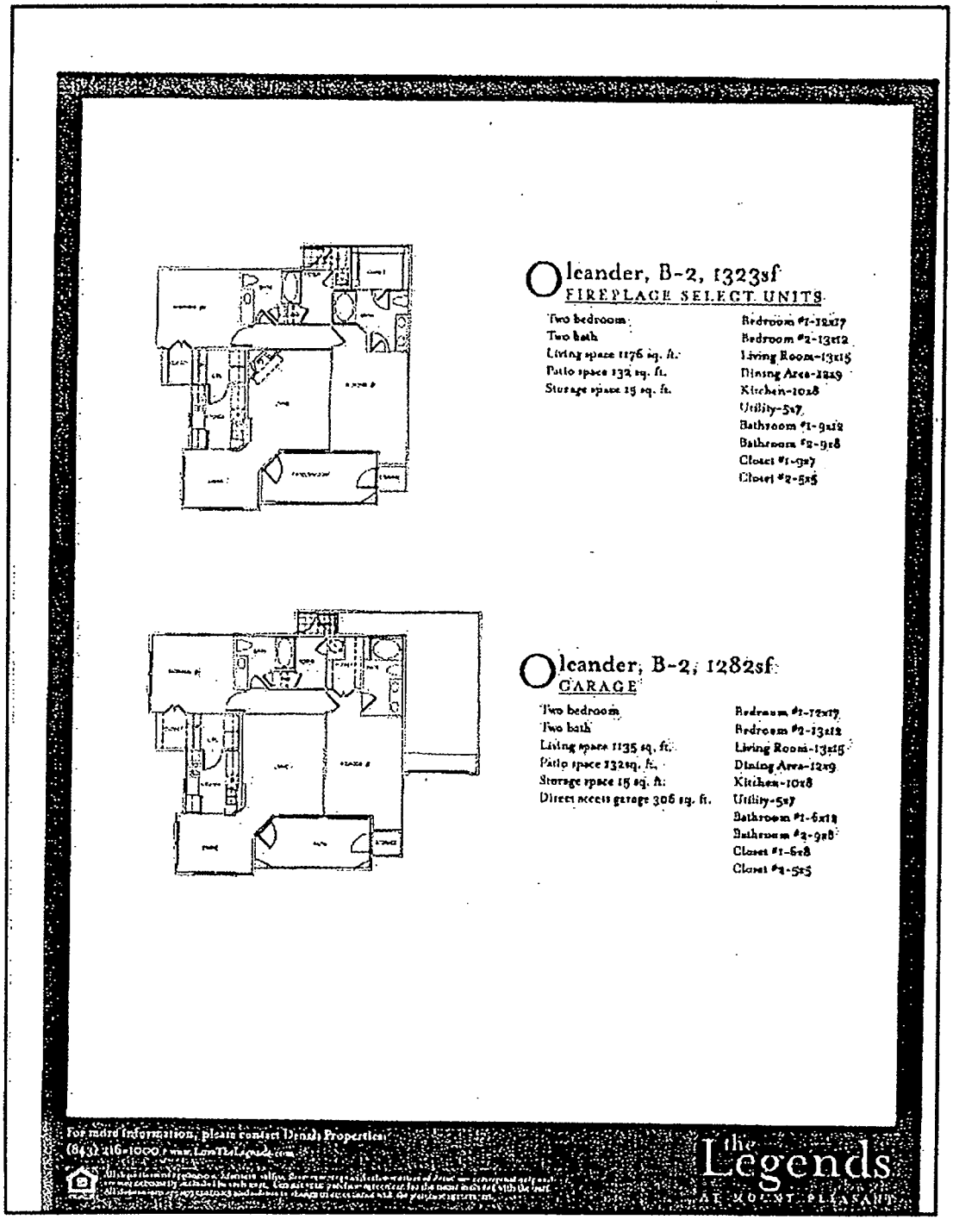
Sketch-1

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



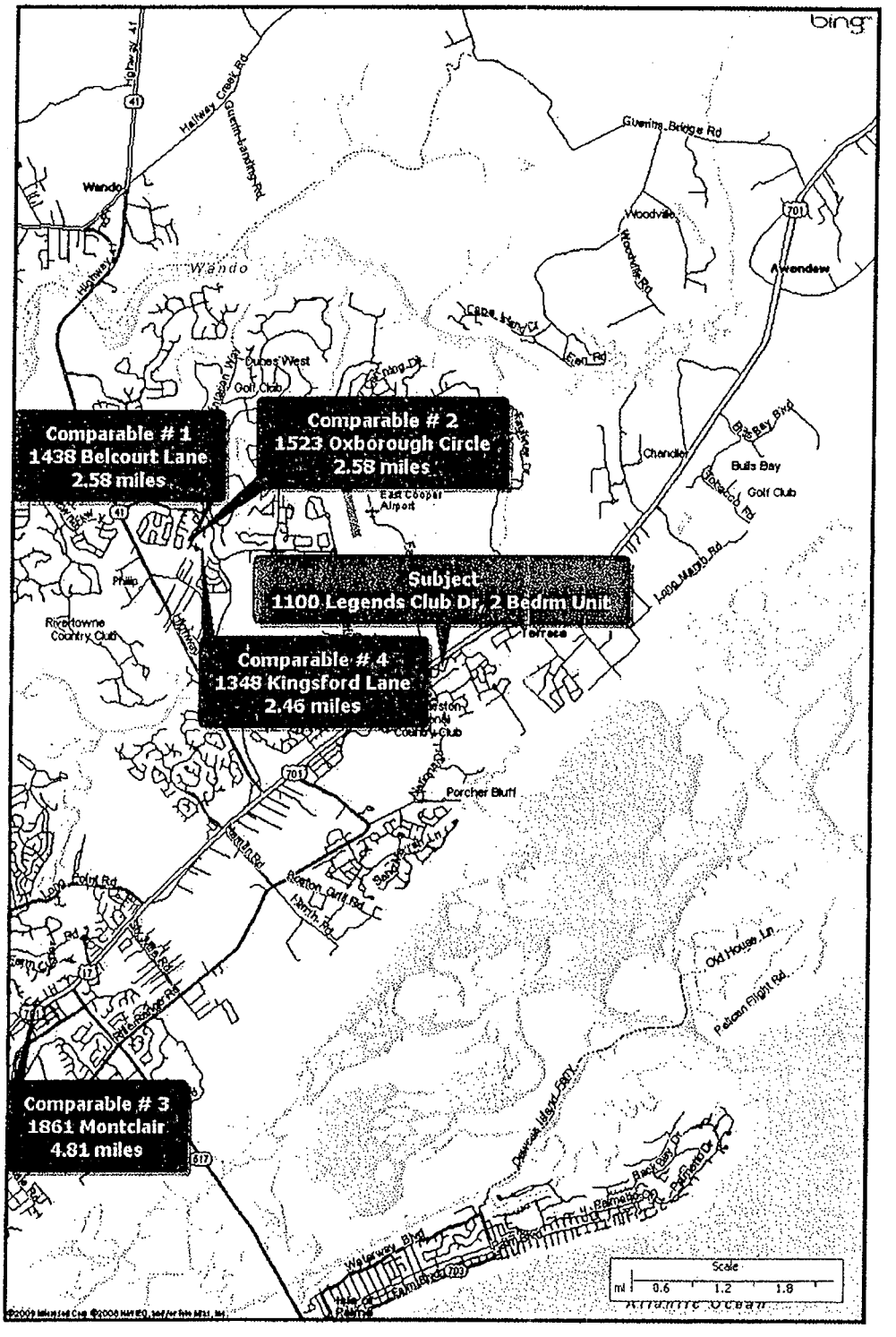
Sketch-2

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County	Charleston	State SC	Zip Code 29466
Lender	Ad Valorem Tax Purposes				



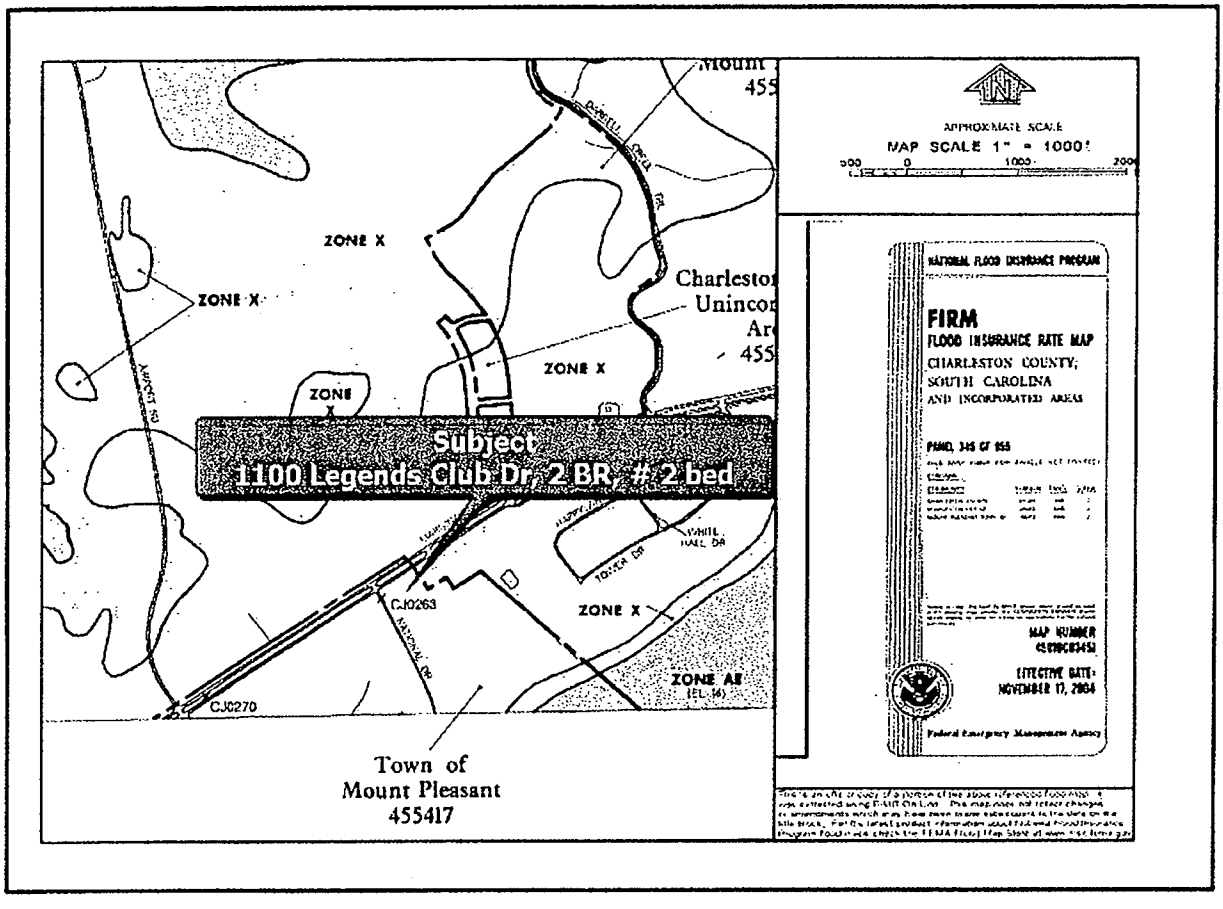
Comparable Sales Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Flood Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Appraiser's Qualifications

File No. 08/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr, 2 BR, # 2 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

APPRAISER'S QUALIFICATIONS

NAME:	**Angela H. Sawadske**
POSITION:	Senior Staff Appraiser
STATE CERTIFIED REAL ESTATE APPRAISER:	SC CR 4000
DATE EMPLOYED:	June 30, 2003
EDUCATIONAL BACKGROUND:	Bachelor of Science, College of Charleston
REAL ESTATE COURSES:	**Trident Technical College** L-1: Principles of Real Estate Appraisals L-2: Market Data Analysis L-3: Uniform Standards of Professional Appraisal Practice CR: Residential Analysis -Small Income Property Appraisals **Spearman Center for Professional Education** C-1: Basic Income Property Appraising C-2: Advanced Income Property Appraising C-3: Applied Income Property Valuation Appraisal Report Writing: Clear, Concise and Correct **SC Chapter Appraisal Institute** Real Estate Disclosure Business Practices and Ethics Land Valuation Adjustment Procedures **Philip Urso Seminars** Selecting and Supporting Market Adjustments A Fresh Look at Correctly Completing Fannie Mae Forms **IAAO** Uniform Standards of Professional Appraisal Practice Update Reconstructing Income/Expense Statements **McKissock** Appraising High-Value Residential Properties **South Carolina Department of Revenue** Real Property Valuation Reform Act with 2007 Amendments Legal Terminology & Non-Tax Statutes for Taxing Officials Assessable Transfers of Interest Legal Residence from a Lawyer's Perspective History of Ad Valorem Valuation
PREVIOUS EMPLOYMENT:	Atlantic Appraisals, 1998-2003
PROFESSIONAL AFFILIATIONS:	South Carolina Association of Assessing Officials (SCAAO)

Assessors Exchange Summary

File No. 09/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

ASSESSOR'S EXCHANGE

Enclosed find copies of documents, including appraisals, property sales, and a brief description of any other evidence that will be introduced or submitted by the Assessor. Also enclosed are the names of the witnesses who will testify, and a brief statement of what the witnesses will be expected to establish or prove.

PARCEL DATA

AS OF DECEMBER 31, 2003 FOR TAX YEAR 2008

Owner:	**Keystone Legends I LP**		
Agent:			
Parcel ID Number:	**09/599-00-00-XXX**	**Tax District:**	**2-1**
Property Location/Address:	**1100 Legends Club Dr. 3 BR, # 3 bed**		
Legal Description:	**3 bedrm unit, Camellia Plan, The Legends *** See Addenda*****		

OPINION OF VALUE

	Appellant		Assessor	
	FMV(1)	ERA(2)	FMV(1)	ERA(2)
Land Value				
Building Value				
Improved Value				
TOTAL				

Comments: **See Attached: "Issues Surrounding the Case"**

Witness(es) to Testify: Angela H. Sawadske
Senior Staff Appraiser

Toy Glennon, Assessor

July 22, 2010
Date

Note:

(1) FMV = Full (100%) Market Value **(Estimate as of 12/31/03)**

(2) ERA = Equity Relationship of Appellant's Property to Other Similar Properties in the Area

BAA#: **BAA 08-0004(B)**
PID#: **09/599-00-00-XXX**

PETITIONER'S EXHIBIT 3

0247

PENGAD 800-631-6989

Issues Surrounding the Case

File No. 09/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

Issues Surrounding the Case:

The Legends is a 200 unit condominium complex located in Mt. Pleasant, located in front of the Charleston National subdivision. It is a private gated community with a pool, clubhouse, fitness center, business center, tennis courts and a playground. The project was originally an apartment complex that was converted to condominiums by master deed D581-121 filed April 27, 2006. For tax year 2007, each condo unit was valued individually and notices were mailed informing the owners of the new values. For tax year 2008 one of the owners has appealed, requesting that 121 of the 143 units he owns be valued as an apartment complex. There are no outstanding appeals from the owners of the other 57 units in the complex for tax year 2008.

The Legends has a total of 11 floor plans. For the Administrative Law Court, an appraisal has been submitted for a typical 1 bedroom, 2 bedroom and 3 bedroom unit with effective dates of 12/31/2003 and 12/31/2007. This was done in order to verify if the 2007 values had dropped below the 2003 values. After completing these appraisals it was confirmed that 2007 values had not fallen below 2003 values, but the appraiser would recommend that the individual 2003 values be lowered according to the spreadsheet below.

Floor Plan	Pre-Appeal 2003 Values	12/31/2007 Lien Date Value	Recommended 2003 Values
1 Bedroom Units			
Azalea Plan (13)	$115,000	$140,000	$105,000
Azalea Elongated Plan(10)	$120,000	$143,000	$107,000
Dogwood Plan (33)	$120,000	$146,000	$110,000
Magnolia Garage Plan (5)	$145,000	$171,000	$134,000
2 Bedroom Units			
Jasmine Plan (2)	$175,000	$193,000	$148,000
Jasmine Elongated Plan(1)	$180,000	$199,000	$156,000
Jasmine Garage Plan (6)	$200,000	$216,000	$170,000
Oleander Plan (38)	$182,000	$202,000	$157,000
Oleander Garage Plan (1)	$205,000	$222,000	$175,000
3 Bedroom Units			
Camellia Plan (9)	$205,000	$215,000	$170,000
Camellia Garage Plan (3)	$230,000	$238,000	$192,000

APPRAISAL OF REAL PROPERTY



LOCATED AT

1100 Legends Club Dr. 3 BR, # 3 bed
Mt. Pleasant, SC 29466
3 bedrm unit, Camellia Plan, The Legends *** See Addenda***

FOR

Ad Valorem Tax Purposes
N/A

OPINION OF VALUE

170,000

AS OF

12/31/2003

BY

Angela H. Sawadske
Charleston County Assessor's Office

Charleston, SC
(843) 958-4100
asawadske@charlestoncounty.org

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA 08-0004(B)
File No.: 09/599-00-00-XXX

SUBJECT

Property Address: 1100 Legends Club Dr. 3 BR | Unit #: 3 bed | City: Mt. Pleasant | State: SC
Zip Code: 29466 | County: Charleston | Legal Description: 3 bedrm unit, Camellia Plan, The Legends *** See Addenda***
Assessor's Parcel #: 599-00-00-XXX *** See Addenda***
Tax Year: 2008 | R.E. Taxes: $ Est $2225 | Special Assessments: $ None Noted | Borrower (if applicable): N/A
Current Owner of Record: Keystone Legends I LP | Occupant: ☐ Owner ☒ Tenant (Market Rent) ☐ Tenant (Regulated Rent) ☐ Vacant
Project Type: ☐ Condominium ☒ Other (describe) Apartment Complex as of effective date of appr | HOA: $ N/A ☐ per year ☐ per month
Market Area Name: Mount Pleasant | Map Reference: 599-00-00-XX | Census Tract: 46.01
Project Name: The Legends | Phase: 1

ASSIGNMENT

The purpose of this appraisal is to develop an opinion of: ☒ Market Value (as defined), or ☐ other type of value (describe) For Ad Valorem Taxes
This report reflects the following value (if not Current, see comments): ☐ Current (the Inspection Date is the Effective Date) ☒ Retrospective ☐ Prospective
Approaches developed for this appraisal: ☒ Sales Comparison Approach ☐ Cost Approach ☒ Income Approach (See Reconciliation Comments and Scope of Work)
Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)
Intended Use: See Addenda

Intended User(s) (by name or type): See Addenda
Client: Charleston County | Address:
Appraiser: Angela H. Sawadske | Address: 101 Meeting Street, Charleston, SC 29401

MARKET AREA DESCRIPTION

Location:	☐ Urban	☒ Suburban	☐ Rural	**Predominant Occupancy**	**Condominium Housing**			**Present Land Use**		**Change in Land Use**	
Built up:	☐ Over 75%	☒ 25-75%	☐ Under 25%		PRICE		AGE	One-Unit	%	☒ Not Likely	
Growth rate:	☐ Rapid	☒ Stable	☐ Slow	☐ Owner	$(000)		(yrs)	2-4 Unit	%	☐ Likely *	☐ In Process *
Property values:	☐ Increasing	☒ Stable	☐ Declining	☒ Tenant	97	Low	1	Multi-Unit	99 %	* To:	
Demand/supply:	☐ Shortage	☒ In Balance	☐ Over Supply	☐ Vacant (0-5%)	248	High	20	Comm'l	1 %		
Marketing time:	☐ Under 3 Mos.	☒ 3-6 Mos.	☐ Over 6 Mos.	☐ Vacant (>5%)	155	Pred	3		%		

Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Typical financing is conventional or cash. It is typical of the market for sellers to pay buyers closing costs. Average time on market is 3-9 months.

PROJECT SITE DESCRIPTION

Zoning Classification: Residential | Description: PD - Planned Development
Zoning Compliance: ☒ Legal ☐ Legal nonconforming (grandfathered) ☐ Illegal ☐ No zoning
Ground Rent (if applicable) $ N/A/ | Comments: N/A

Highest & Best Use as improved (or as proposed per plans & specifications): ☒ Present use, or ☐ Other use (explain)

Actual Use as of Effective Date: Apartment Complex | Use as appraised in this report: Residential Condominium
Summary of Highest & Best Use: The current use as a residential condominium is the highest and best use of this property. Current zoning allows this use and it is physically, and legally permissable.

Utilities	Public	Other	Provider/Description
Electricity	☒	☐	
Gas	☒	☐	
Water	☒	☐	
Sanitary Sewer	☒	☐	
Storm Sewer	☐	☐	

Off-site Improvements	Type	Public	Private
Street	Asphalt	☐	☒
Curb/Gutter	Concrete	☐	☒
Sidewalk	Concrete	☐	☒
Street Lights	Typical Overhead	☐	☒
Alley	None	☐	☐

Density	8.6 units/acre
Size	200 units / 23.22 acres +/-
Topography	Level at Grade
View	Typical Interior

Other site elements: ☒ Inside Lot ☐ Corner Lot ☐ Cul de Sac ☐ Underground Utilities ☐ Other (describe)
FEMA Spec'l Flood Hazard Area ☐ Yes ☒ No | FEMA Flood Zone Zone X | FEMA Map # 45019C0345J | FEMA Map Date 11/17/04
Site Comments: Final determination of flood zone should lie in survey. No adverse easements or encroachments noted at the time of inspection.

GP CONDO

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BAA 08-0004(B)
File No.: 09/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

PROJECT INFORMATION

Data source(s) for project information: Physical Inspection, Master Deed, Owner, MLS

Project Description: ☐ Detached ☐ Row or Townhouse ☐ Garden ☐ Mid-Rise ☐ High-Rise ☒ Other (describe) Low-Rise

General Description of Project				Subject Phase	#	If Project Completed	#	If Project Incomplete	#
# of Stories	Two	Exterior Walls	Hardi Plank	Units	200	Phases	1	Planned Phases	N/A
# of Elevators	N/A	Roof Surface	Comp Shingles	Units Completed	200	Units	200	Planned Units	N/A
☒ Existing ☐ Proposed ☐ Und.Cons.		Total # Parking	***See	Units For Sale	N/A	Units for Sale	N/A	Units for Sale	N/A
Design (Style)	Low-Rise	Ratio (spaces/unit)	Below***	Units Sold	N/A	Units Sold	N/A	Units Sold	N/A
Actual Age (Yrs.)	Built 2000	Parking Type(s)	Open	Units Rented	196	Units Rented	196	Units Rented	N/A
Effective Age (Yrs.)	3 Years	Guest Parking	Included	Owner Occup. Units	N/A	Owner Occup. Units	N/A	Owner Occup. Units	N/A

Project Primary Occupancy: ☐ Principle Residence ☐ Second Home or Recreational ☒ Tenant *** See Addenda ***

Is the developer/builder in control of the Homeowners' Association (HOA)? ☒ Yes ☐ No

Management Group: ☐ Homeowners' Association ☒ Developer ☐ Management Agent (name of management agent or company): Keystone Legends I LP, owned all 200 units in the complex as of the effective date of value.

Was the project created by the conversion of existing building(s) into a condominium? ☒ Yes ☐ No If Yes, describe the original use and date of conversion.
The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006.

Are CC&Rs applicable? ☒ Yes ☐ No ☐ Unknown Have the documents been reviewed? ☐ Yes ☒ No Comments:

Project Comments (condition, quality of construction, completion status, etc.): The project was an apartment complex that was converted to a condominium by master deed D581-121 filed April 27, 2006. The complex is average quality of construction and average condition for its age. Common elements include privacy gate entry, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House. The project is complete. The complex was constructed with each unit having seperate HVAC, electric meters, water meters, and washer/dryer connections thus making the cost to convert the units from multi-family to condominiums minimal.

Common Elements and Recreational Facilities: Common elements include private entry gate, swimming pool, fitness facility, tennis courts, business center, laundry room, mailbox, the compactor, and Club House.

PROJECT ANALYSIS

Summary of condominium project budget analysis for the current year (if analyzed): Due to the property being a multi-family apartment complex as of the effective date, there is no condominium budget to analyze.

Other fees for the use of the project facilities (other than regular HOA charges): None Noted

Compared to other competitive projects of similar quality and design, the subject unit charge appears ☐ High ☒ Average ☐ Low (If High or Low, describe)
Due to this being a hypothetical appraisal, there are no current unit charges to analyze.

Are there any special or unusual characteristics of the project (based on the condominium documents, HOA meetings, or other information) known to the appraiser?
☐ Yes ☒ No If Yes, describe and explain the effect on value and marketability. None Known

UNIT IMPROVEMENTS

Unit Charge: $ N/A per month X 12 = $ N/A per year. Annual assessment charge per year per SF of GLA = $

Utilities included in the Unit Charge: ☒ None ☐ Heat ☐ Air Conditioning ☐ Electricity ☐ Gas ☐ Water ☐ Sewer ☐ Cable ☐ Other Apartment

Source(s) used for physical characteristics of property: ☒ New Inspection ☒ Previous Appraisal Files ☒ MLS ☒ Assessment and Tax Records ☒ Prior Inspection ☒ Property Owner ☒ Other (describe) Master Deed Data Source for Gross Living Area Master Deed

General Description		Exterior Description		Foundation ☐ N/A		Basement ☒ N/A		Heating	
Floor Location	2nd Floor	Foundation	CC Slab	Slab	Concrete	Area Sq. Ft.		Type	FWA
# of Levels	1 Story	Exterior Walls	Hardi Plank	Crawl Space	None	% Finished		Fuel	Electric
Design (Style)	1 Story	Roof Surface	Comp Shingles	Basement	None	Ceiling			
☒ Existing ☐ Proposed		Gutters & Dwnspts.	Yes/Yes	Sump Pump ☐ N/A		Walls		Cooling	
☐ Under Construction		Window Type	Vinyl Insulated	Dampness ☐ NoneNoted		Floor		Central	Yes
Actual Age (Yrs.)	Built 2000	Storm/Screens	No / Yes	Settlement	None Noted	Outside Entry		Other	
Effective Age (Yrs.)	3 yrs			Infestation	None Noted				

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INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

BAA 08-0004(B)
File No.: 09/599-00-00-XXX

UNIT IMPROVEMENTS (continued)

Interior Description		Appliances		Attic ☐ N/A		Amenities		Car Storage ☐ None	
Floors	Carpet/Vinyl/Average	Refrigerator	☒	Stairs	☐	Fireplace(s) #	Woodstove(s) #	☐ Garage	#
Walls	Drywall/Average	Range/Oven	☒	Drop Stair	☐	Patio		☐ Covered	#
Trim/Finish	Wood/Average	Disposal	☐	Scuttle	☐	Deck		☒ Open	# ***See
Bath Floor	Vinyl / Average	Dishwasher	☒	Doorway	☐	Porch	See Below	Total # of cars	Adenda**
Bath Wainscot	Fiberglass/Average	Fan/Hood	☐	Floor	☐	Fence		☐ Assigned	
Doors	Hollow Core/Average	Microwave	☒	Heated	☐	Pool	Community	☐ Owned	
		Washer/Dryer	☒	Finished	☐	Balcony	See Below	Space #(s)	

Finished area above grade contains: 6 Rooms 3 Bedrooms 2 Bath(s) 1,357 Square Feet of Gross Living Area Above Grade

Are the heating and cooling for the individual units separately metered? ☒ Yes ☐ No (If No, describe)

Additional features: This is the regular Camellia floor plan. All of the units with this floor plan (16) are located on the second floor with all but three having a balcony. See Below.

Describe the condition of the property (including physical, functional and external obsolescence): Features include fireplace, ceramic tile foyer, carpet and vinyl flooring throughout, washer and dryer connections, walk-in closets. Kitchen has formica countertops, white cabinets, white electric appliances including stove, dishwasher and microwave. The units are in average condition. No functional or external obsolescence noted.

INCOME APPROACH

INCOME APPROACH TO VALUE (if developed) ☐ The Income Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE RENTAL # 1	COMPARABLE RENTAL # 2	COMPARABLE RENTAL # 3
Address	1100 Legends Club Dr. 3 BR, # 3 Mt. Pleasant, SC 29466	1100 Legends Club Dr. Mt. Pleasant, SC 29466	1358 Hopton Cir. Mt. Pleasant, SC 29466	1553 Deenepark Cir. Mt. Pleasant, SC 29466
Project	The Legends	The Legends	Ellington Woods	Ellington Woods
Phase	1	1		
Proximity to Subject		Same Project	Within 2 Miles	Within 2 Miles
Current Monthly Rent	$ N/A	$ 1,150	$ 1,195	$ 1,250
Rent/GLA	$ /sq.ft.	$ 0.85 /sq.ft.	$ 0.76 /sq.ft.	$ 0.85 /sq.ft.
Rent Control	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No
Data Source(s)	MLS,Public Records	Submitted Rent Rolls	MLS,Public Records	MLS,Public Records
Date of Lease(s)	N/A	Unknown	Unknown	Unknown
Location	The Legends	The Legends	Ellington Woods	Ellington Woods
View	Typical Interior	Typical Interior	Typical Interior	Typical Interior
Age	Built 2000	Built 2000	Built 2001	Built 2000
Condition	Average	Average	Average	Average
Above Grade Room Count (Total / Bdrms / Baths)	6 / 3 / 2	6 / 3 / 2	6 / 3 / 2	6 / 3 / 2
Gross Living Area	1,357 sq.ft.	1,357 sq.ft.	1,567 sq.ft.	1,465 sq.ft.
Utilities Included	None	None	None	None
Parking	Open	Open	Open	Open
Furnishings	None	None	Furnished	Furnished

Summary of Income Approach (including support for market rent and GRM): The gross rent multiplier and the rent used is based on competing properties similar to the subject. There were no sales in the subject complex as it was prior to the condo conversion. See Addendum for GRM indicators.

Opinion of Monthly Market Rent $ 1,150 X Gross Rent Multiplier 150 = $ 172,500 Indicated Value by Income Approach

TRANSFER HISTORY

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): Public Records, MLS

1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: There were no prior transfers of the subject or the comparables within one year of the effective date of value.
Date: N/A	
Price: N/A	
Source(s): MLS, Public Records	
2nd Prior Subject Sale/Transfer	
Date:	
Price:	
Source(s):	

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BAA 08-0004(B)

File No.: 09/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

SALES COMPARISON APPROACH

SALES COMPARISON APPROACH TO VALUE (if developed) ☐ The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	1100 Legends Club Dr. 3 BR, # 3 Mt. Pleasant, SC 29466	1577 Cambridge Lakes Drive Mt. Pleasant, SC 29464		1476 Belcourt Lane Mt. Pleasant, SC 29466		1326 Kingsford Lane Mt. Pleasant, SC 29466	
Project / Phase	The Legends 1	Cambridge Lakes		Ellington Woods		Ellington Woods	
Proximity to Subject		Approximately 5 Miles		Within 2 Miles		Within 2 Miles	
Sale Price	$ N/A		$ 149,900		$ 157,500		$ 150,970
Sale Price/GLA	$ /sq.ft.	$ 112.20 /sq.ft.		$ 105.42 /sq.ft.		$ 103.05 /sq.ft.	
Data Source(s)	MstrDd,Owner,Insp	MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records		MLS, Master Deed, Pub Records	
Verification Source(s)	599-00-00-XXX	TMS# 559-14-00-143		TMS# 594-10-00-609		TMS# 594-10-00-725	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions	N/A N/A	None Known		None Known		None Known	
Date of Sale/Time	N/A	11/13/2003		11/7/2003		10/8/2003	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	The Legends	Inferior	+15,000	Inferior	+15,000	Inferior	+15,000
HOA Fees ($/Month)	N/A	190		198		173	
Common Elements and Recreational Facilities	Gate,fitnesscntr, pool,clbhs,bsctr	Pool,clubhouse fitness cntr	+7,500	Pool,clubhouse tennis court	+7,500	Pool,clubhouse tennis court	+7,500
Floor Location	2nd Floor	1st Floor		1st Floor		1st Floor	
View	Typical Interior	Typical		Typical		Typical	
Design (Style)	1 Story	1 Story		1 Story		1 Story	
Quality of Construction	Average	Average		Average		Average	
Age	Built 2000	Built 2000		Built 2000		Built 2003	
Condition	Average	Average		Average		New	-2,500
Above Grade Room Count (Total / Bdrms / Baths)	6 / 3 / 2	6 / 3 / 2		6 / 3 / 2		6 / 3 / 2	
Gross Living Area	1,357 sq.ft.	1,336 sq.ft.		1,494 sq.ft.	-6,900	1,465 sq.ft.	-5,400
Basement & Finished Rooms Below Grade	N/A	N/A		N/A		N/A	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	CH&A	CH&A		CH&A		CH&A	
Energy Efficient Items	Average	Average		Average		Average	
Parking	Adequate	Adequate		Adequate		Adequate	
Porch/Patio/Deck	Balcony	Screen Porch	-1,500	Screen Porch	-1,500	Screen Porch	-1,500
Fireplace	Fireplace	None	+2,000	None	+2,000	Fireplace	
Net Adjustment (Total)		☒ + ☐ -	$ 23,000	☒ + ☐ -	$ 16,100	☒ + ☐ -	$ 13,100
Adjusted Sale Price of Comparables			$ 172,900		$ 173,600		$ 164,070

Summary of Sales Comparison Approach: The Comparables used are believed to be the best available. The subject complex was not converted to condos until tax year 2007, therefore, there are no comparables available in the subject complex as of the effective date of value. All 3 comparables are located in nearby competing condominium complexes. They all have 3 bedrooms and 2 baths, and comps 2 and 3 are slightly larger than the subject. All 3 Comparables have inferior common elements due to not being private communities. A location/neighborhood adjustment has been made to all comparables due to being located further from area beaches, and/or the downtown area, as well as having off-site shared amenities. A condition adjustment was made to Comparable 3 due to being a new unit. All 3 comparables are considered to be reliable indicators of fair market value.

Indicated Value by Sales Comparison Approach $ 170,000

GP CONDO

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BAA 08-0004(B)

File No.: 09/599-00-00-XXX

INDIVIDUAL CONDO UNIT APPRAISAL SUMMARY REPORT

COST APPROACH

COST APPROACH TO VALUE (if developed) ☒ The Cost Approach was not developed for this appraisal.

Summary of Cost Approach: Cost Approach is not applicable as condominium units are not constructed on an individual basis.

RECONCILIATION

Indicated Value by: Sales Comparison Approach $ 170,000 Cost Approach (if developed) $ N/A Income Approach (if developed) $ 172,500

Final Reconciliation The Sales Comparison Approach is considered to be the most reliable method of valuation of single family homes and condominiums. Cost Approach is not applicable as condominium units are not constructed on an individual basis. The Income Approach is supportive.

This appraisal is made ☐ "as is", ☒ subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, ☐ subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: This is a hypothetical appraisal of a condo unit. The subject was an apartment complex as of the effective date of value.

☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: $ 170,000 , as of: 12/31/2003 , which is the effective date of this appraisal.
If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.

ATTACHMENTS

A true and complete copy of this report contains 16 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

☐ Scope of Work ☐ Limiting Cond./Certifications ☐ Narrative Addendum ☐ Photograph Addenda ☐ Sketch Addendum
☐ Map Addenda ☐ Additional Sales ☐ Additional Rentals ☐ Flood Addendum ☐ Hypothetical Conditions
☐ Extraordinary Assumptions ☐ Budget Analysis ☐ ☐ ☐

SIGNATURES

Client Contact: Charleston County Client Name: Charleston County
E-Mail: assessor@charlestoncounty.org Address:

APPRAISER

Appraiser Name: Angela H. Sawadske
Company: Charleston County Assessor's Office
Phone: (843) 958-4100 Fax:
E-Mail: asawadske@charlestoncounty.org
Date of Report (Signature): July 22, 2010
License or Certification #: CR 4000 State: SC
Designation: Certified Residential
Expiration Date of License or Certification: 6/30/2012
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 8/21/2007

SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)

Supervisory or Co-Appraiser Name:
Company:
Phone: Fax:
E-Mail:
Date of Report (Signature):
License or Certification #: State:
Designation:
Expiration Date of License or Certification:
Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection:

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Supplemental Addendum

File No. 09/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

Condo : Subject - Data Source(s), Offering Price(s), Date(s)

MLS, Owner, Master Deed, Public Records, Physical Inspection.

As of the effective date of the appraisal, the subject property was being operated as an apartment complex. This is a hypothetical appraisal to estimate the value of individual units if the subject property had been converted from a multi-family apartment complex to individual condominiums as of the effective date.

Subject Information:

Please note that this appraisal was performed for a standard three bedroom unit. The appraiser chose this unit as a representation of a typical three bedroom condominium unit, which serves as the basis to value other three bedroom units. The Legends complex has two different floor plans consisting of 3 bedrooms and 2 baths. As you can see below, each of the units have have minor differences and have been adjusted accordingly. The subject of this appraisal is the Camellia Plan.

The Camellia Plan (16 units total): These units are located on the second floor, have1,357 square feet, a fireplace and a balcony. Our recomended value for this floor plan is $170,000.

The Camellia Garage Plan (8 units total): These units are located on the first floor, have 1,377 square feet, a screen porch and an attached garage. Taking the base value of $170,000 and adding $1500 for having a screen porch, and adding $20,000 for an attached garage gives an indicated value of $191,500, which has been rounded to $192,000.

Project Information:

Parking spaces are not assigned, they are on a first-come, first serve basis.

As of the effective date of value, the property was an apartment complex. Therefore, it was tenant occupied. According to office records, a 2% vacancy was reported as of 12/2003.

Income Approach Information:

Address	Sale Price	Rent	GRM
1195 Village Creek	$106,500	$725/mo.	147
1304 Old Tabby Ln	$139,900	$950/mo.	147
3380 Billings	$171,250	$1050/mo.	163
1500 Dutch Iris	$295,000	$1750/mo.	168

The GRM's range from 147-168. Based on unit type and rent, a GRM of 150 was used.

BAA 08-0004(B)

File No.: 09/599-00-00-XXX

Assumptions & Limiting Conditions

Property Address: 1100 Legends Club Dr. 3 BR, # 3 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

— The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

— The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.

— If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

— The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

— If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.

— The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

— The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

— The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

— If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.

— An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

— The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.

— An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

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BAA 08-0004(B)

File No.: 09/599-00-00-XXX

Definitions & Scope of Work

Property Address: 1100 Legends Club Dr. 3 BR, # 3 bed	City: Mt. Pleasant	State: SC	Zip Code: 29466	
Client: Charleston County	Address: 101 Meeting Street, Charleston, Sc 29402			
Appraiser: Angela H. Sawadske	Address: 101 Meeting St, Charleston, SC 29401			

SCOPE OF WORK

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparables sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

DEFINITION OF MARKET VALUE *:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

Further - South Carolina Code of Law section 12-37-930 states:

"...all property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used.

DATE OF VALUE:

The taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year, S. C. Code Ann. § 12-37-900.

This is a **Retrospective Value Estimate** in conformance with the Uniform Standards of Professional Appraisal Practice as it relates to retrospective value estimates and as the South Carolina Statute is applied.

INTENDED USE OF APPRAISAL

The intended use of this appraisal is to estimate the market value of the subject real property as of the effective date of value for purposes of ad valorem taxation. This appraisal/valuation analysis is being used in support of the Assessor's position relative to the market value of the subject property(s) that is /are being appealed to the Charleston County Board of Assessement Appeals and/or Administrative Law Court. This appraisal is also intended to assist the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court in deliberations regarding issues raised in the appeal.

INTENDED USER(S)

This report is intended as part of a presentation of the Assessor's position to the Charleston County Board of Assessment Appeals and/or SC Administrative Law Court (ALC) in a board conference or contested case hearing. The intended users include: Members of the Charleston County Board of Assessment Appeals, the SC ALC Judge presiding, the appellant/owner, the appellant's representative or legal counsel, members of the Assessor's office scheduled to testify and Charleston County's legal counsel. The appraiser intends to offer oral testimony regarding the hearing of the subject appeal. This testimony is supplementary to the report and without the testimony, the position of the Assessor may not be clear.

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BAA 08-0004(B)

File No.: 09/599-00-00-XXX

Certifications

Property Address: 1100 Legends Club Dr. 3 BR, # 3 bed City: Mt. Pleasant State: SC Zip Code: 29466

Client: Charleston County Address: 101 Meeting Street, Charleston, Sc 29402

Appraiser: Angela H. Sawadske Address: 101 Meeting St, Charleston, SC 29401

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

— The statements of fact contained in this report are true and correct.

— The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

— I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

— I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

— My engagement in this assignment was not contingent upon developing or reporting predetermined results.

— My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

— My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.

— I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.

— Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.

— Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

WORKFILE

The appraiser's work file and the Assessor's files are incorporated into this appraisal report by reference.

SUMMARY OF HIGHEST AND BEST USE

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. Because the site is in the midst of a stable residential neighborhood, there is little likelihood of a zoning change or a variance for non-conforming use.

Angela H Sawadske

Client Contact: Charleston County Client Name: Charleston County

E-Mail: assessor@charlestoncounty.org Address: 101 Meeting Street, Charleston, SC 29402

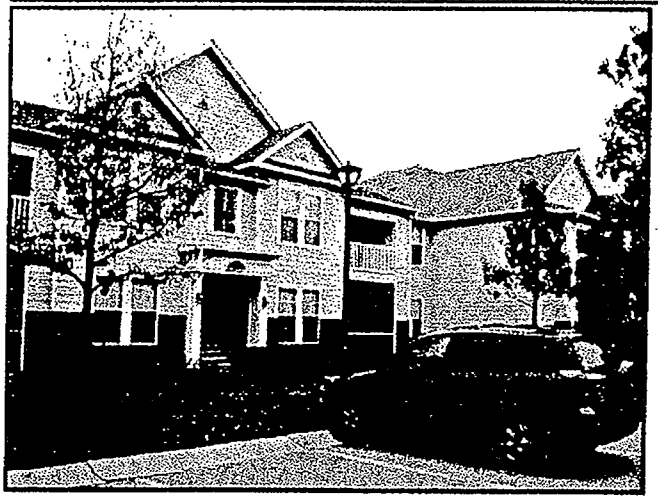
SIGNATURES

APPRAISER	**SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)**
Appraiser Name: Angela H. Sawadske	Supervisory or Co-Appraiser Name:
Company: Charleston County Assessor's Office	Company:
Phone: (843) 958-4100 Fax:	Phone: Fax:
E-Mail: asawadske@charlestoncounty.org	E-Mail:
Date Report Signed: July 22, 2010	Date Report Signed:
License or Certification #: CR 4000 State: SC	License or Certification #: State:
Designation: Certified Residential	Designation:
Expiration Date of License or Certification: 6/30/2012	Expiration Date of License or Certification:
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None	Inspection of Subject: ☐ Interior & Exterior ☒ Exterior Only ☐ None
Date of Inspection: 8/21/2007	Date of Inspection:

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Subject Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Subject Front

1100 Legends Club Dr. 3 BR, # 3 bed

Sales Price	N/A
Gross Living Area	1,357
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	The Legends
View	Typical Interior
Site	
Quality	Average
Age	Built 2000



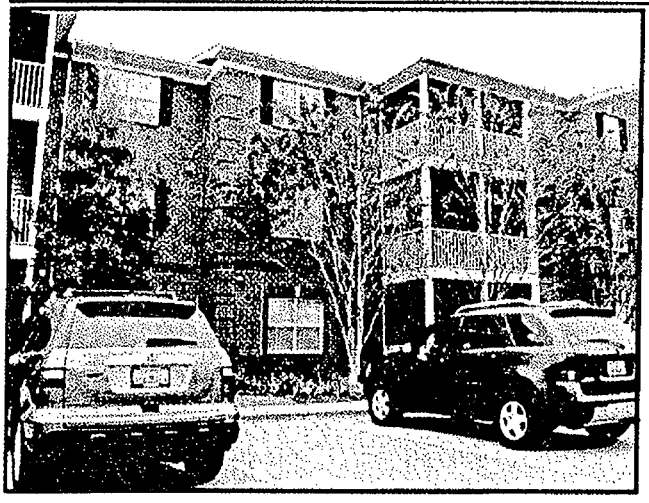
Subject Rear



Subject Street

Comparable Photo Page

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Comparable 1

1577 Cambridge Lakes Drive

Prox. to Subject	Approximately 5 Miles
Sales Price	149,900
Gross Living Area	1,336
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	Inferior
View	Typical
Site	
Quality	Average
Age	Built 2000



Comparable 2

1476 Belcourt Lane

Prox. to Subject	Within 2 Miles
Sales Price	157,500
Gross Living Area	1,494
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	Inferior
View	Typical
Site	
Quality	Average
Age	Built 2000



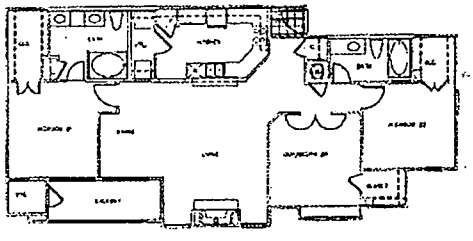
Comparable 3

1326 Kingsford Lane

Prox. to Subject	Within 2 Miles
Sales Price	150,970
Gross Living Area	1,465
Total Rooms	6
Total Bedrooms	3
Total Bathrooms	2
Location	Inferior
View	Typical
Site	
Quality	Average
Age	Built 2003

Sketch

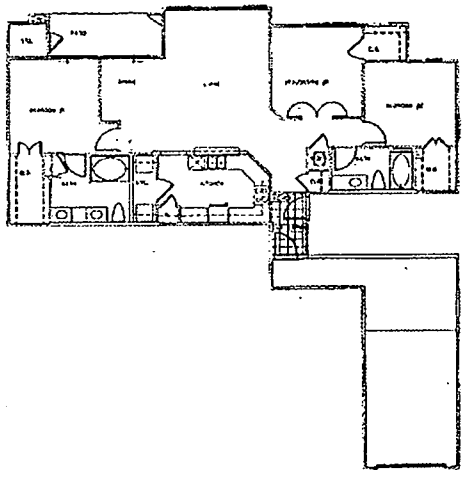
Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County	Charleston	State SC	Zip Code 29466
Lender	Ad Valorem Tax Purposes				



Camellia, C-1, 1456sf
FIREPLACE

Three bedroom
Two bath
Living space 1357 sq. ft.
Patio space 79 sq. ft.
Storage space 21 sq. ft.

Bedroom #1-12 x12 ½
Bedroom #2-12x 11
Bedroom #3 11½ x12
Living Room-18x14
Dining Area-12x8
Kitchen-15x9
Utility-3x9
Bathroom #1-10x9
Bathroom #2-11x6
Closet #1-9x5
Closet #2-5x6
Closet #3-5x5



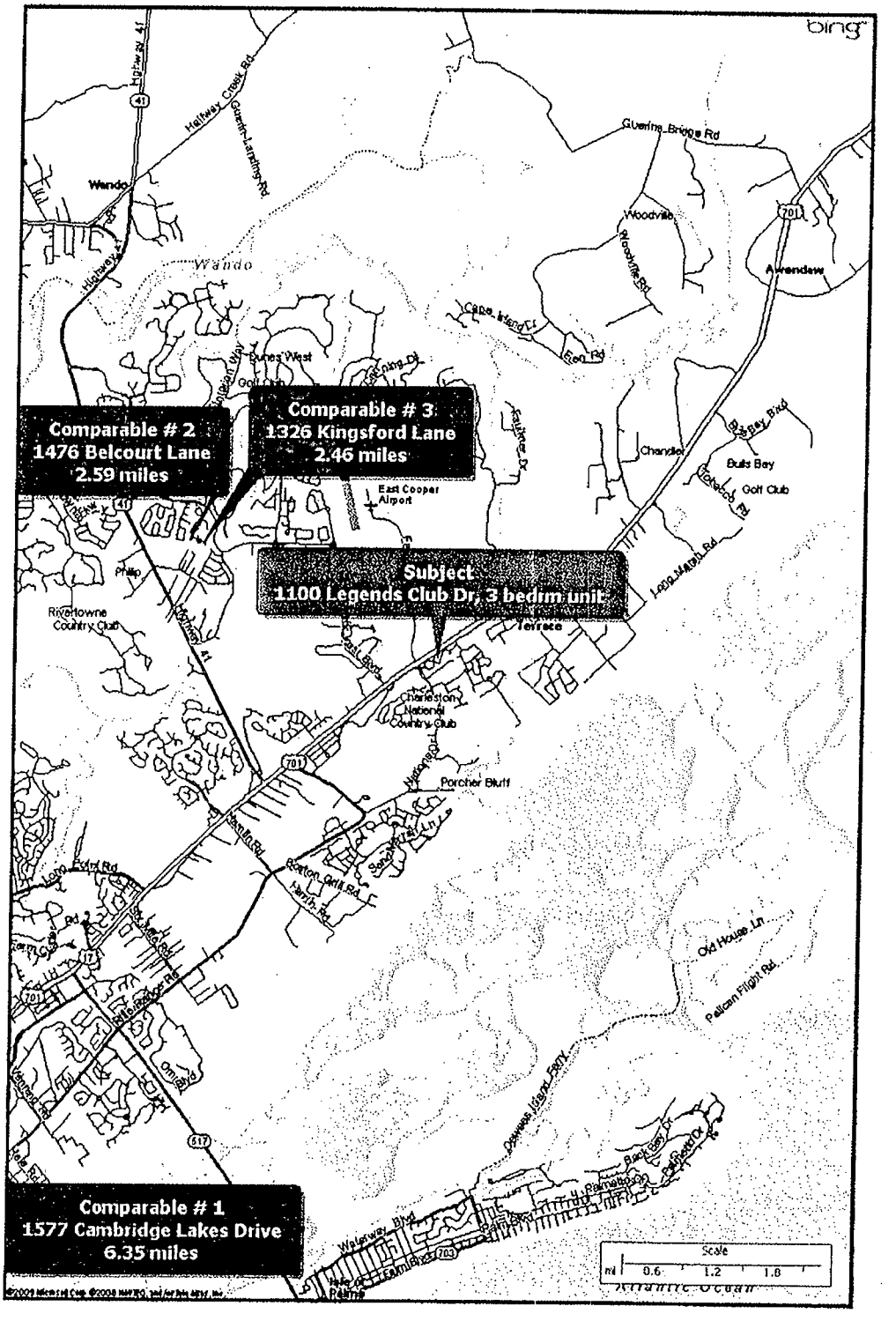
Camellia, C-1, 1480sf
GARAGE

Three Bedroom
Two bath
Living space 1377 sq. ft.
Patio space 82 sq. ft.
Storage space 21 sq. ft.
Direct access garage 364 sq. ft.

Bedroom #1 12x12 ½
Bedroom #2 12x11
Bedroom #3 11½x12
Living room 18x14
Dining area-12x8
Kitchen-15x9
Utility-3x9
Bathroom #1-10x9
Bathroom #2-11x6
Closet #1-9x5
Closet #2-5x6
Closet #3-5x5

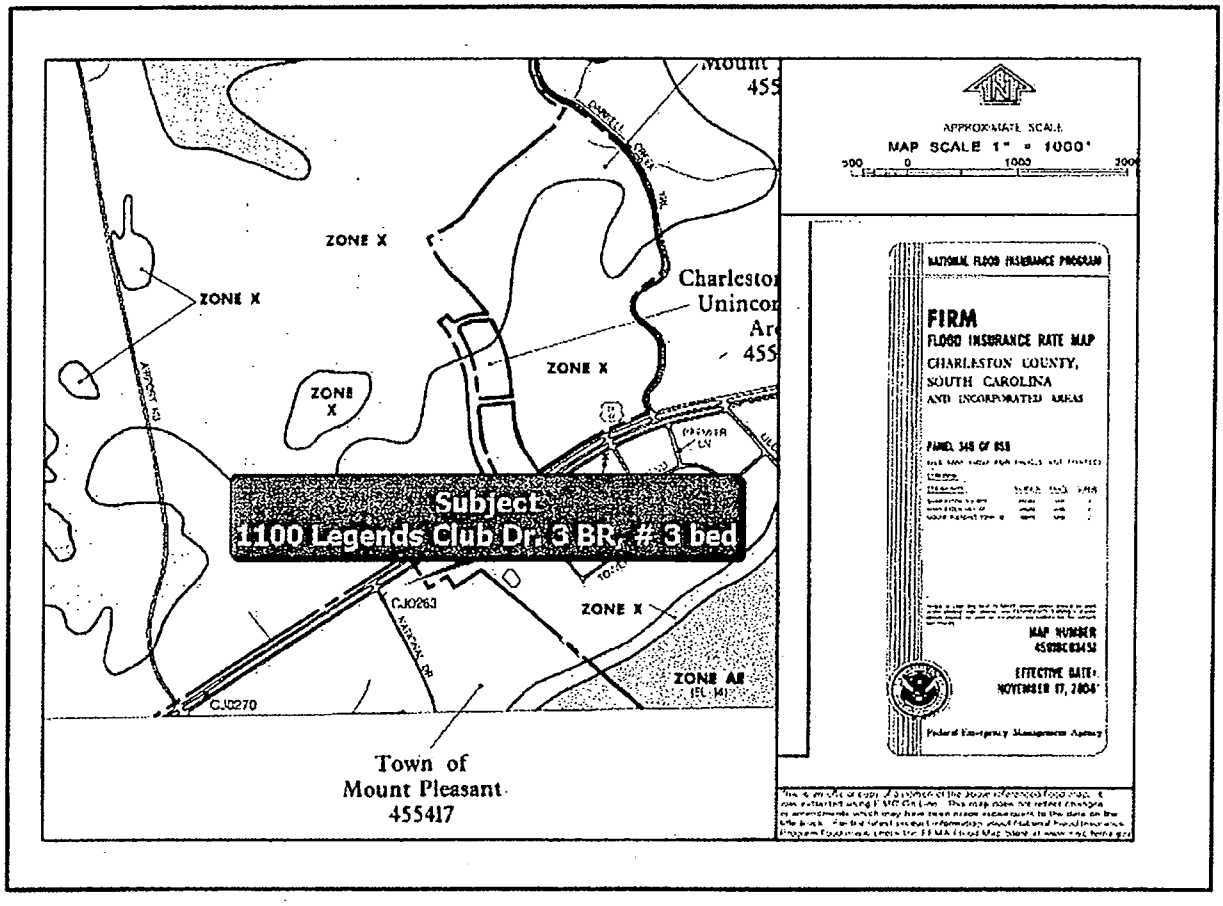
Comparable Sales Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Flood Map

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				



Appraiser's Qualifications

File No. 09/599-00-00-XXX

Borrower/Client	N/A				
Property Address	1100 Legends Club Dr. 3 BR, # 3 bed				
City	Mt. Pleasant	County Charleston	State SC	Zip Code 29466	
Lender	Ad Valorem Tax Purposes				

APPRAISER'S QUALIFICATIONS

NAME: Angela H. Sawadske

POSITION: Senior Staff Appraiser

STATE CERTIFIED REAL ESTATE APPRAISER: SC CR 4000

DATE EMPLOYED: June 30, 2003

EDUCATIONAL BACKGROUND: Bachelor of Science, College of Charleston

REAL ESTATE COURSES:

Trident Technical College
L-1: Principles of Real Estate Appraisals
L-2: Market Data Analysis
L-3: Uniform Standards of Professional Appraisal Practice
CR: Residential Analysis -Small Income Property Appraisals

Spearman Center for Professional Education
C-1: Basic Income Property Appraising
C-2: Advanced Income Property Appraising
C-3: Applied Income Property Valuation
Appraisal Report Writing: Clear, Concise and Correct

SC Chapter Appraisal Institute
Real Estate Disclosure
Business Practices and Ethics
Land Valuation Adjustment Procedures

Philip Urso Seminars
Selecting and Supporting Market Adjustments
A Fresh Look at Correctly Completing Fannie Mae Forms

IAAO
Uniform Standards of Professional Appraisal Practice Update
Reconstructing Income/Expense Statements

McKissock
Appraising High-Value Residential Properties

South Carolina Department of Revenue
Real Property Valuation Reform Act with 2007 Amendments
Legal Terminology & Non-Tax Statutes for Taxing Officials
Assessable Transfers of Interest
Legal Residence from a Lawyer's Perspective
History of Ad Valorem Valuation

PREVIOUS EMPLOYMENT: Atlantic Appraisals, 1998-2003

PROFESSIONAL AFFILIATIONS: South Carolina Association of Assessing Officials (SCAAO)

AN

APPRAISAL/VALUATION ANALYSIS
OF

LEGENDS at MT PLEASANT APARTMENTS

LOCATED IN
CHARLESTON COUNTY, SC

AS OF

DECEMBER 31, 2003

PREPARED BY

STEPHEN J. EVERMAN

FOR

CHARLESTON COUNTY

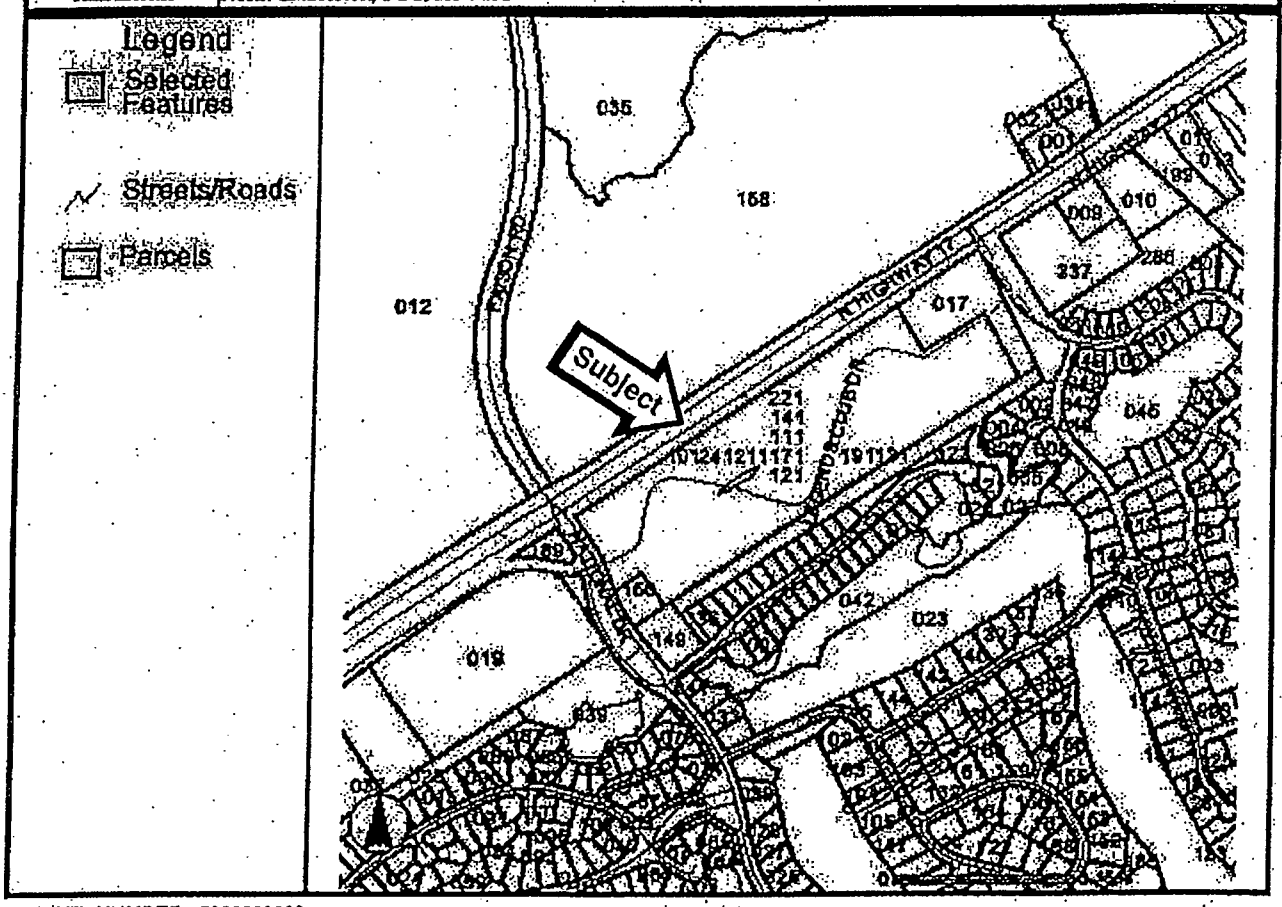
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PETITIONER'S EXHIBIT 4
0265

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Location:	Legends at Mt. Pleasant Apartments 1100 Legends Club Drive, Mt. Pleasant S.C.
Tax Map Number:	599-00-00-020
Owner of Record:	Keystone Legends I LP as of the date of the TY 2005 reassessment notice. Note that the property has been converted to a Horizontal Property Regime, and some units have sold.
Improvements:	80 -1 bedroom apartments 96 - 2 bedroom apartments 24 - 3 bedroom apartments 200 - Total
Zoning:	PD (Planned Development)
Highest and Best Use:	Multi Family Residential
Date of Value Estimate:	December 31, 2003
Tax Year:	Tax Year 2005
Market Value Estimates:	
Land Value:	$1,600,000
Sales Comparison Approach	$17,000,000
Income Approach	$16,800,000
Date of Equity Value Estimate:	December 31, 2003
Equity Value	$ 16,644,000
Owners Estimate of Value:	$ 12,611,967
Date of Report:	April 26, 2004
Flood Zone:	Flood Zone X, FEMA Map 45019 C 0345J, Dated November 17, 2004

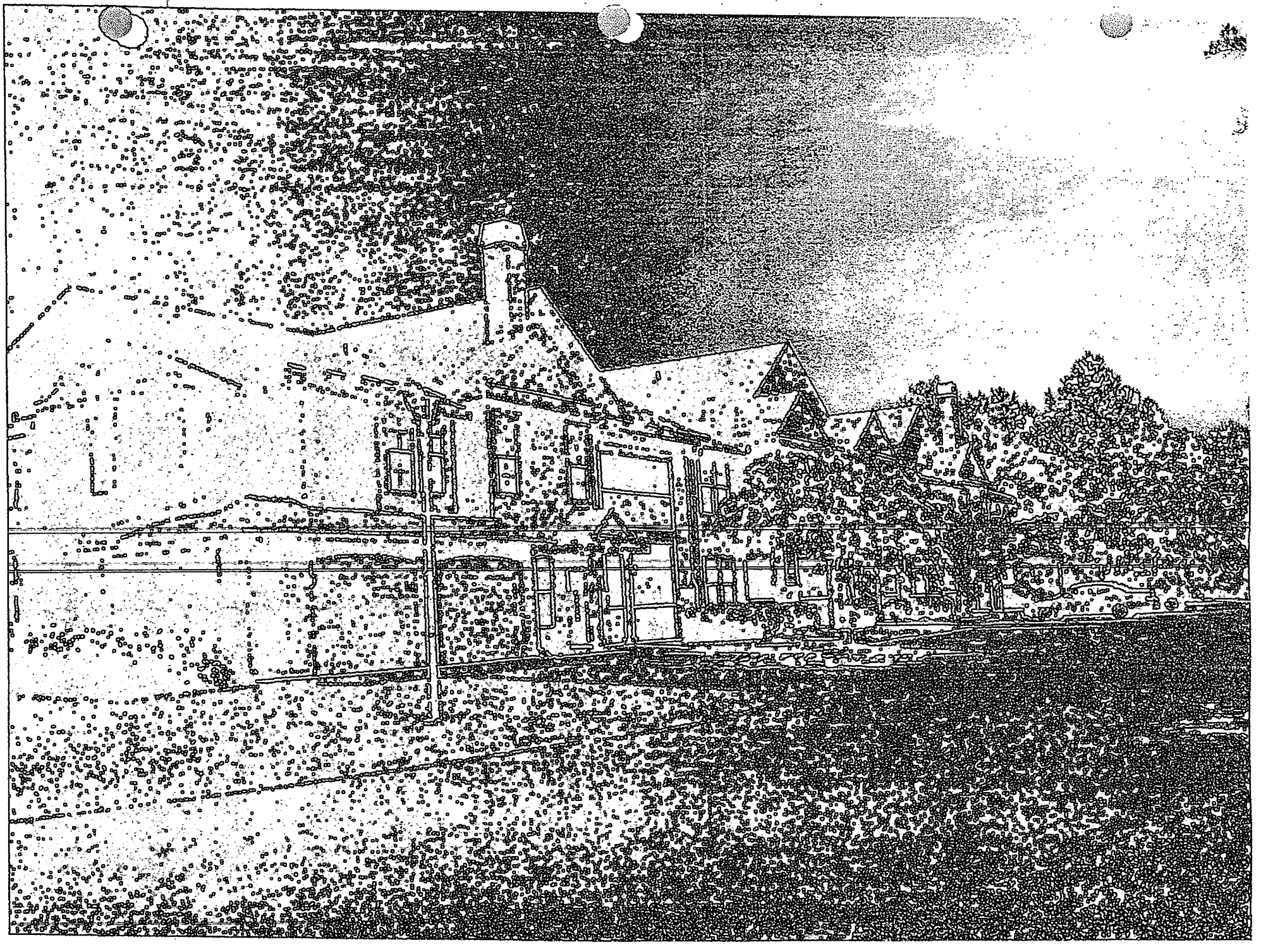
Charleston County, South Carolina

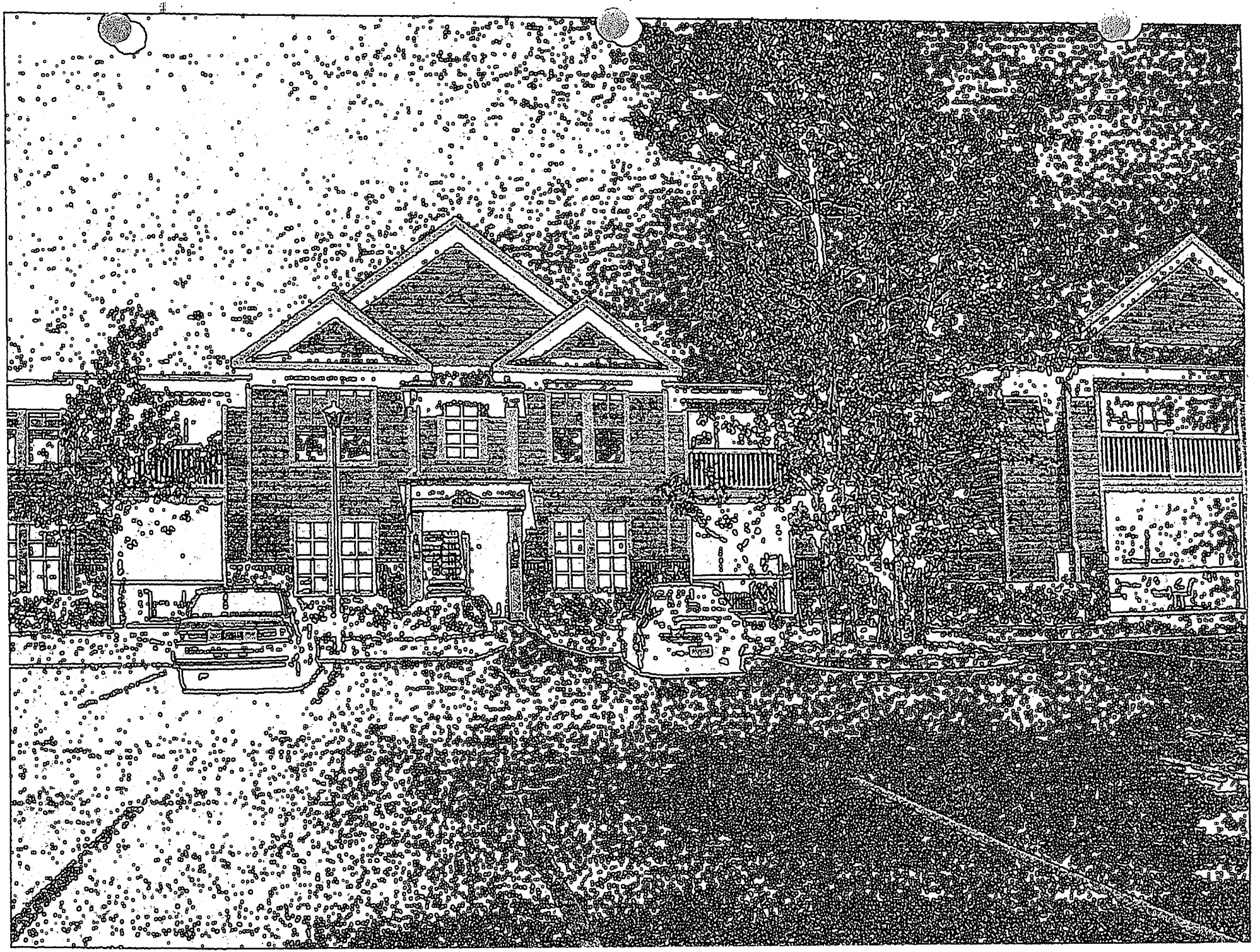
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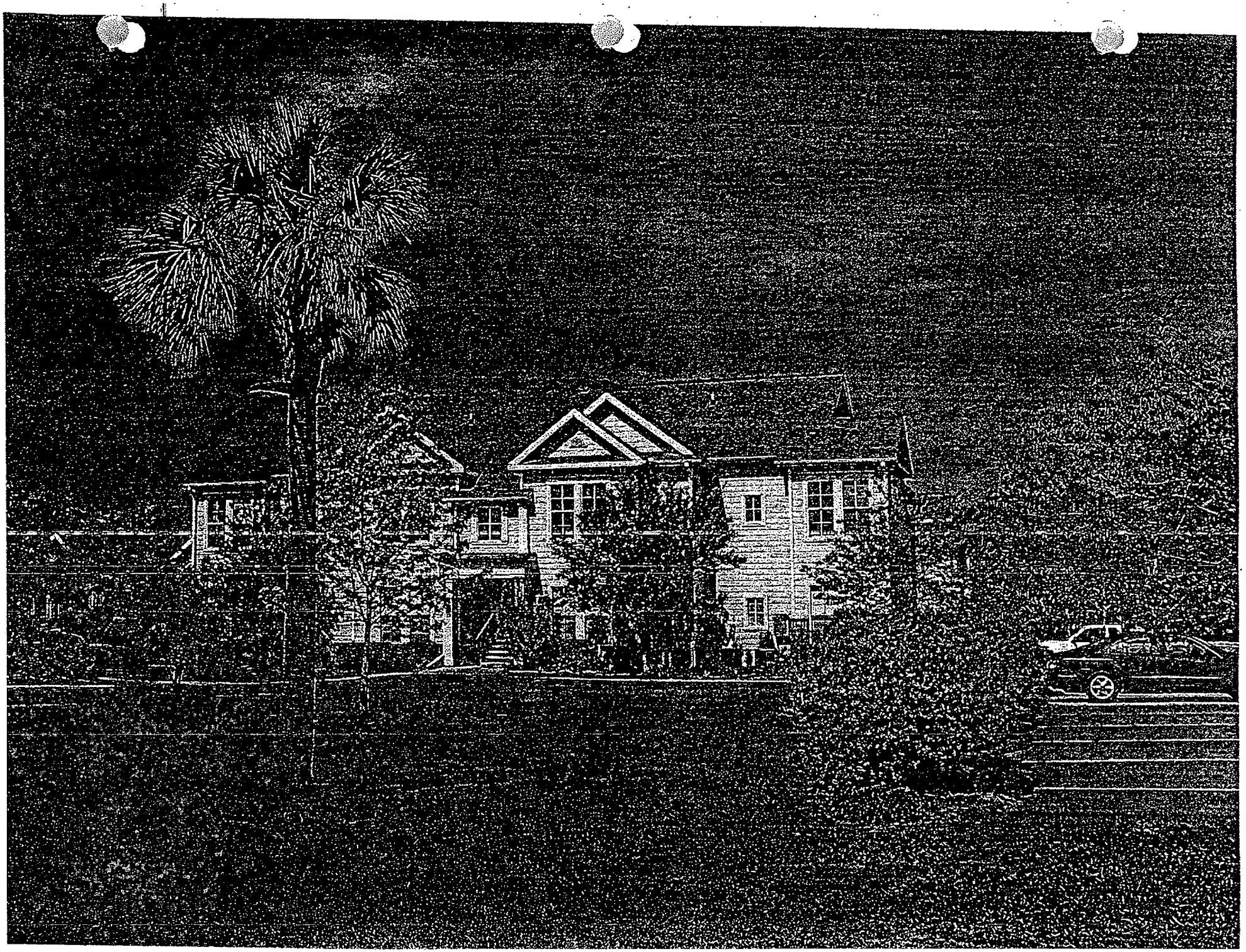


PARCEL NUMBER : 5990000020

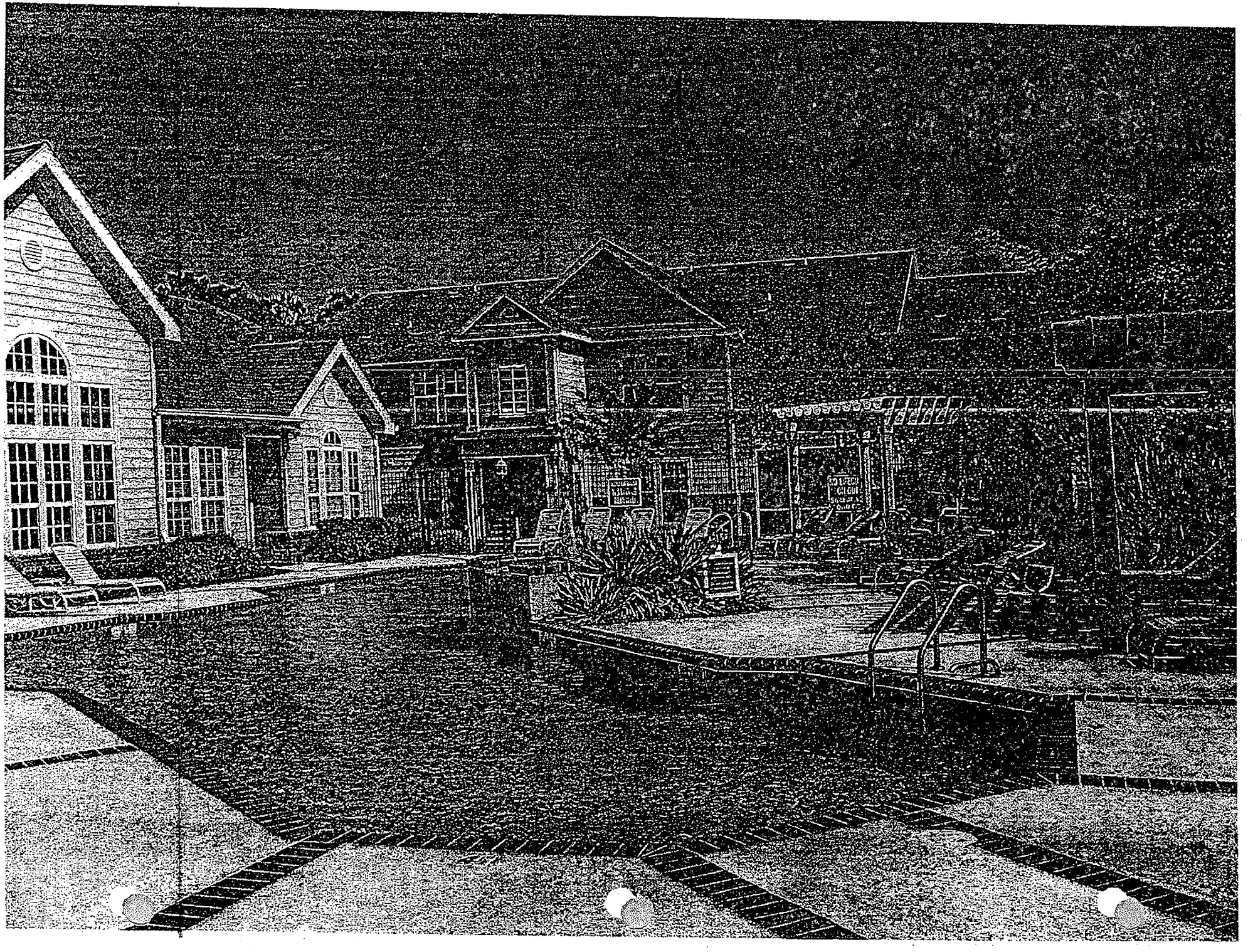
PARCEL ID:	5990000020
STREET NUMBER:	1100
STREET NAME:	LEGENDS CLUB DR
PROP UNIT:	
PROP CITY:	
PROP ZIP:	29466
SITE NAME:	LEGENDS AT MT. PLEASANT APTS
GENERAL USE:	APT
MOBILE HOMES:	0
SUBDIVISION:	JERVEY TRACT/ THE LEGENDS HPR
LEGAL DESCRIPTION:	TRACT B MASTER FILE
LGL HI ACRES:	22.92
LGL MAR ACRES:	0
LGL WATER ACRES:	
LGL SWAMP ACRES:	0.3
LGL TOTAL ACRES:	23.22
TAX DISTRICT:	21
JURISDICTION:	CCC
PLAT BOOK:	ED-197
OWNER ON 1ST:	LMP PROPERTIES INC
OWNER2 ON 1ST:	

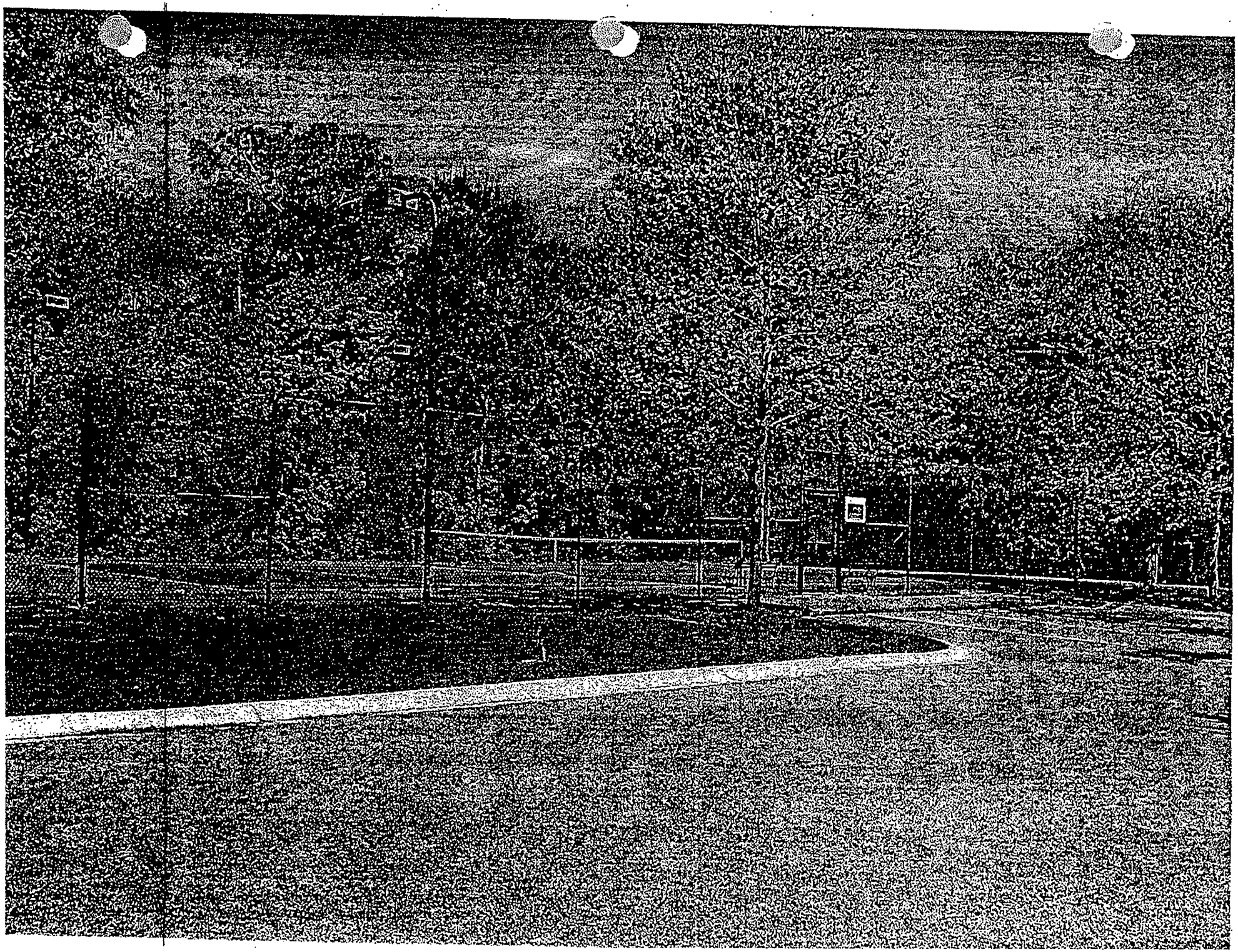







Information
Center







CRITICAL ISSUES SURROUNDING THE CASE

The subject is a 200-unit apartment complex, located at 1100 Legends Club Drive in the Town of Mount Pleasant, in Charleston County, SC. The property sits on 22.92 acres off Highway 17.

The Assessor's initial value was derived from the Income Approach tables developed for reassessment, which valued the property at $16,644,000 ($1,600,000 land and $15,044,000 building).

The owner, Mr. Follmann, wrote a letter objection to the original reassessment value via a letter dated August 16, 2005.

A telephone conference was held with Mr. Follmann on September 26, 2005, where the valuation method was explained. Mr. Follmann was mailed the required Application for Review, which afforded him 30 days to provide information in support of an estimate of value.

Mr. Follmann returned the Application for Review and indicated that a value of $12,611,967,000 was appropriate. A Proforma statement of operations was provided to the Assessors Office, which he used to estimate the value. Also included was a final order from an ALJ case on the property for tax year 2002.

An Assessment Notice- indicating no change in Assessor's previous value was sent on March 10, 2006. Mr. Follmann appealed to the BAA in a letter dated March 20, 2006.

APPRAISAL REPORT AND VALUATION ANALYSIS

This Summary Appraisal Report intended to comply with Standard 2-2 (b) of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation. In considering the use and intended users in the scope of work decision, I believe that summary discussions of the data, reasoning and analysis are appropriate in this appraisal. The depth of discussion contained in the report is specific to the needs of the client and for the intended use stated in the report. The appraiser and the Charleston County Assessor's Office cannot be responsible for unauthorized use of this report.

USE OF THE REPORT

This appraisal/valuation analysis is being prepared to support the appraiser's estimate of the market value of the subject real property as of the effective date for the client, the Charleston County Assessor's Office. The valuation analysis is in support of ad valorem taxation of real property. The report is being submitted for use in support of the Assessor's position relative to the market value of the subject property that is being appealed to the Charleston County Board of Assessment Appeals (BAA) for Tax Year 2005.

Complete copies of the report will be given to the members of the Board of Assessment Appeals for use in their decision making process.. The appellant will also receive a complete copy. The appraiser intends to offer oral presentation of this report to the Board during the BAA conference for the subject property. This testimony is supplementary to the report and without the testimony, the position of the Assessor may not be clear.

PROPERTY RIGHTS APPRAISED

The property rights considered in this analysis are ownership of the fee simple estate. The real estate appraisal profession considers the definition of fee simple estate to be:

> "absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. "

(ref. The 12th Edition of *The Appraisal of Real Estate*, page 69, The Appraisal Institute)

MARKET VALUE DEFINITION

South Carolina Code of Law section 12-37-930 states:

> "...all property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to

the uses and purposes for which it is adapted and for which it is capable of being used."

Market Value is defined by the Office of the Comptroller of the Currency under 12 CFR, part 34, Subpart C – Appraisals, as follows:

> "The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
>
> 1) Buyer and seller are typically motivated;
> 2) Both parties are well informed or well advised, and acting in what they consider their own best interest;
> 3) A reasonable time is allowed for exposure on the open market;
> 4) Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
> 5) The price represents the normal consideration for the property sold unaffected by special creative financing or sales concessions granted by anyone associated with the sale."

Also implicit in the definition of Market Value is a reasonable *exposure time* on the open market. Exposure time precedes the effective date of the appraisal and encompasses not only adequate time on the market, but adequate, sufficient and reasonable effort to market the property. Exposure time is a function of price, time on market and the uses to which the property can be reasonably adapted. The exposure and marketing time for the subject property are estimated to be less than one year.

EFFECTIVE DATE OF VALUE

Generally, the date of value for a given tax year is as of the lien date for taxes. However, SC statutes have some conflicts regarding date of value. The property value in question is being appealed for the 2005 Tax year. Therefore, the date of value would generally be December 31, 2004. However, recently adopted SC Code of Laws Section 12-43-215 provides the following.

> **SECTION 12-43-215.** Owner-occupied residential real property; highest and best use; appeals of assessment value.
>
> When owner-occupied residential property assessed pursuant to Section 12-43-220(c) is valued for purposes of ad valorem taxation, the value of the land must be determined on the basis that its highest and best use is for residential purposes. When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, based on the market values of real property *as they existed in the year that the equalization and reassessment program was conducted and on which the assessment is based (emphasis added).*

If Market value is lower as of the lien date than it is as of the reassessment date, the Charleston County Assessor's office would value the property as of the lien date. Doing so would construe conflicting statutes in the favor of the taxpayer, as the courts have frequently required. In short, the more recent value date will apply if it benefits the taxpayer. There is no indication in the market that values fell between December of 2003 and December of 2004. In fact, all indications are that values rose.

Accordingly, based on the above statute and no evidence of declining values, the date of value for this Tax Year 2005 appeal is December 31, 2003, which is the date of value for the countywide reassessment. The Assessors Office has included a valuation analysis as of December 31, 2004 as further support that values did not decline between December 2003 and December 2004. Therefore, this is a retrospective value estimate that was prepared in conformance with the Uniform Standards of Professional Appraisal Practice as it relates to retrospective value estimates.

DATE OF REPORT AND INSPECTION

The property was inspected on September 29, 2003 and again on April 24, 2007. The appraiser is assuming that the condition of the property as of the effective date of value is the same as its condition on the date of inspection. Note that the first inspection date preceded the reassessment date by three months. No information has been provided to the appraiser to indicate that the condition has changed substantially.

PROPERTY IDENTIFICATION

PID:	599-00-00-020
Legal:	Tract B
Location:	1100 Legends Club Drive, Mt. Pleasant, SC

OWNERSHIP AND HISTORY

Owner of Record:	Keystone Legends I LP
Last Sale Date:	August 2, 1998, sold as vacant land for $1,235,000

SUMMARY OF PROPERTY CHARACTISTICS

Property Type:	200 unit Apartment complex
Property Name:	The Legends At Mt. Pleasant Apartments
Site Size:	23.22Acres
Plat Reference:	ED-197
Improvements:	13 two-story, exterior corridor apartment buildings. Class D construction, with 200 units. One leasing office with fitness center (Class D construction). One pool and tennis court. Improvements were built in 2000, with 158 units open for occupancy by 12/31/2000 and all 200 units open for occupancy by 12/31/2001.
Easements/Encroachments:	None noted, excepting normal utility easements and a small access easement as noted on plat ED-197
Other Encumbrances:	None, other than short term leases
Flood Zone:	Zone X, Map 45019C0345J Dated 11-17-04

SCOPE OF WORK DECISION AND DATA COLLECTION

The property owner has been asked to provide supporting documentation for use in the appraisal process; specifically comparable properties. The date of the report is April 26, 2007.

In preparing this appraisal, the appraiser:

1) Inspected the subject site on September 29, 2003 & April 24, 2007.
2) Verified general configuration, layout and features.
3) consulted information on the subject property taken from the Assessor's appraisal file
4) corrected the Assessor's appraisal files as needed
5) Gathered and confirmed information on comparable improved sales and/or comparable rentals including information derived from the Assessor's appraisal files, the Multiple Listing Service, real estate publications, field inspection by the appraiser, and information from knowledgeable sources in the market place such as brokers, property managers, and leasing agents.

In considering the overall reporting and scope of work in preparing this Appraisal and in preparing the Report, the appraiser considered the following. The users are the employees of the Assessor's office, the members of the Board of Assessment Appeals, the Appellant (property owner) and an appraiser hired by the Appellant. The employees of the Assessors office, the BAA members and the Appellant are all familiar with Charleston County, and are familiar with the appeal conference process. The Appellant has conferred with the Assessor's office on how the Assessor's office values commercial properties using mass appraisal. Given these factors and the ability to respond to questions at the conference, a summary report is considered appropriate.

The appraiser did not use the Cost Approach, since buyers typically do not purchase properties that are not newly constructed based on cost. The appraiser has relied on the sales and income approaches to value since these are the primary methods used by market participants in estimating value.

SCOPE OF THE APPRAISAL

The appraisal analysis has been completed in several distinct phases; general data collection and analysis, neighborhood data collection and analysis, subject property data collection and analysis, highest and best use analysis, market data collection and verification, valuation & report preparation.

General Data Collection involves the collection of data relating to national, regional and local trends that influence the market for real property in the local area. This would include geographic information, population data, employment and unemployment data, discussion of major employment sectors and general data reflecting development trends and growth in the area. Neighborhood Data Collection includes similar analysis on a more finite scale concentrating primarily on the physical and economic trends in the subject's immediate market area that influence property value, development trends and neighborhood economic growth.

Subject Property Data Collection includes a physical inspection of the property and its environs, a review of existing property records, compilation of factual data, such as plats and plans, a review of applicable regulations and restrictions, a review of any applicable leases and the inspection and analysis of any available financial information for the subject property.

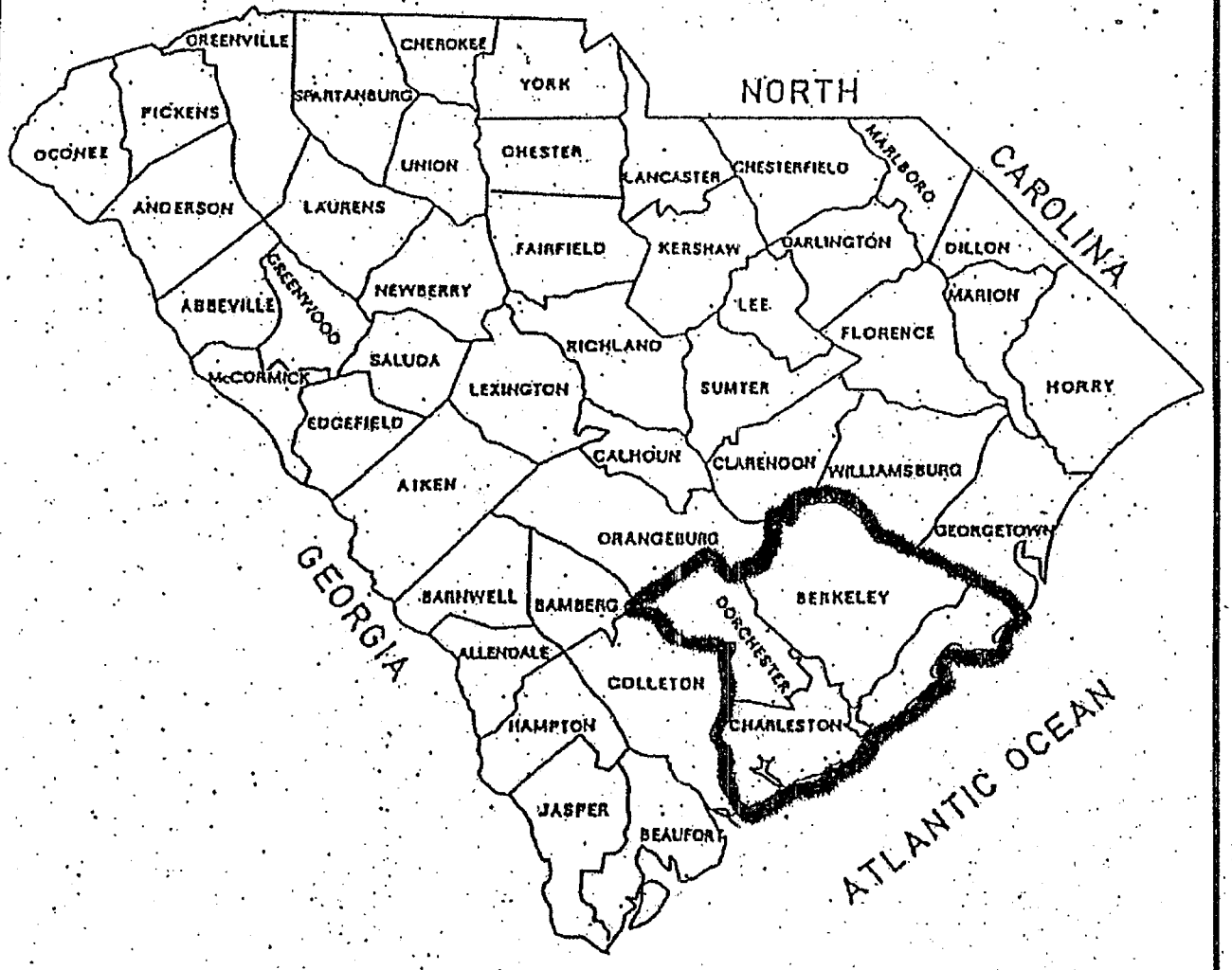
Highest and Best Use analysis determines the maximally profitable use of the property as though vacant and as improved. Implicit in the definition of highest and best use is the concept that improvements (buildings, site improvements and fixtures) have finite economic lives, leading to demolition of the improvements at the end of their life. At the end of that economic life, the existing improvements no longer contribute value, or may contribute only marginally. Land is valued to its highest and best use as thought vacant. The analysis of highest and best use as improved concentrates on the contribution of the existing improvements, which may or may not be the highest and best use.

Market Data Collection includes collection and analysis of general market information for the subject and similar properties. This would vary by property type and might include market sales and listings, development or construction costs, rental and income data, vacancy trends, expenses, typical operating measures, sales, and influences on value. Market data can be local, regional, and national and includes primary and secondary data sources. The appropriate local data has been obtained from within the geographic boundaries of the primary market area influencing the subject property. Market data has been verified with knowledgeable parties

In the Valuation process, required data including: comparable land sales, construction costs, improved building sales, and market rental or income data; have been considered if applicable. The most appropriate approaches to value were considered. Given the highest and best use of the property, those approaches to value that were deemed most applicable were used. The quantity, quality and reliability of the available data was considered and reconciled into a conclusion of value.

Report Preparation is the correlation of the foregoing data into an appropriate report. In the report, the data and analyses are presented in a manner to demonstrate to a reviewer the appraiser's competence and knowledge of appraisal theory and knowledge of the local market.

SOUTH CAROLINA



0282

REGIONAL ANALYSIS

The Tri-county area or Trident Region of South Carolina is composed of Berkeley, Charleston and Dorchester Counties. The regions name is symbolic, with the "tri" standing for both the three counties and its coastal location symbolized by Neptune's trident. The region includes over 90 miles of coastline and extends approximately 90 miles inland, covering over 3,000 square miles. The area has an economy comprised primarily of Tourism, Manufacturing, the Military, the Port of Charleston, and the Medical Community and Manufacturing.

Charleston County is located in the coastal region in the Southeast corner of the State of South Carolina and is approximately 291 miles east of Atlanta GA. Known as the "low country" in reference to the hilly upstate, the topography is flat and coastal. It is one of the largest counties, of which there are 46 in the state, geographically in the state with 1,357 square miles. There are 95 miles of Atlantic coastline within the county. It has 163 miles of urban square miles and 1,194 square miles of rural area. By comparison, Berkeley County has 58 square miles of urban and 1,040 miles of rural area. Dorchester County has 33 square miles of urban and 546 square miles of rural area. Historic preservation is paramount within the confines of the downtown area. The commercial district exist along side the residential and tourist areas. Downtown is also the home for medical treatment for Charleston County. Medical colleges and hospitals have been an important part of the area. Along the coastal stretches of Isle of Palms, Kiawah and Folly Beach, the uses are more residential.

In North Charleston the manufacturing and warehouse market is concentrated. The North Charleston Coliseum is located at the hub of I-26 and I-526. In West Ashley and Mt. Pleasant, there is a balance of commercial, residential and recreational. As expected, the farther one travels away from the center of the county it becomes characteristically rural in nature.

POPULATION

The United States Census, which was completed in 2000, estimated the population in the Tri-County area at 549,033. This is an increase of 8.3% from 1990 to 2000, despite the base closure that occurred in the early to mid 1990's. Population trends for the Tri-County area are shown in the chart following:

Population of Charleston Metro Region

COUNTY	POP.1970	POP.1980	POP.1990	POP.2000	% CH. 90-00
BERKELEY	56,199	94,727	128,776	142,651	10.8%
CHARLESTON	247,650	276,974	295,041	309,969	5.1%
DORCHESTER	32,276	58,761	83,060	96,413	16.1%
TOTAL REGION	336,125	430,462	506,877	549,033	8.3%
S.CAROLINA	2,590,713	3,121,820	3,486,703	3,876,974	00.0%
REGION AS % OF SC	13.0%	13.8%	14.5%	14.2%	N/A

Source: US Bureau of the Census and BCD Council of Governments

As can be seen in the chart, the tri county region has been gaining in population share compared to the state as a whole, with a more recent flattening of the trend. This mirrors a national trend for migration towards coastal communities. The Charleston area and Charleston County in particular also have fairly large non-resident populations due to the presence of the resort/beach areas.

Charleston County is the most populous of the three counties in the region, with 56% of the regional population residing in Charleston County in 2000. Charleston County's population increased by 14,928 during the 1990's, despite the closure of the Navy base, a major employer. This numerical increase in population is the greatest in the region, with Berkeley County coming second in actual population growth at 13,875 additional persons and Dorchester County gaining 13,353 persons.

Charleston County has been losing its *share* of the regional population for several decades, however. For example, in 1970, 74% of the regions population lived in Charleston County, which declined to 58% in 1990 and to 56% in 2000. This decline was not unexpected, as the supply of land in the more heavily urbanized county is limited and prices are high due to demand. The trend is expected to continue, with Charleston eventually falling behind the region on net population gain, as well as rate of increase. Again, greater growth rates in less densely populated areas and lower growth rates in urban areas is a national trend.

As of the 2000 Census, the population density in Charleston County was 228 per/square mile, with Dorchester County at 167 persons/square mile and Berkeley County at 116 per/square mile. Dorchester County is the smallest county in the region, comprising 577 square miles, with Berkeley County at 1,229 square miles and Charleston County dominating at 1,357 square miles.

The regions most populous incorporated area is the City of Charleston, which had a population in 2000 of 97,772, more than all of Dorchester County. The next most populous area is the City of North Charleston with a population of 79,641. The Town of Mount Pleasant is the third largest in the area with a population of 47,609. All three of these towns are located primarily in Charleston County, although both the City of Charleston and North Charleston have small portions of their population (1-4%) in Berkeley or Dorchester County (respectively). The Town of Mount Pleasant saw the most growth, with a gain of 17,501 persons in the last decade, for a growth rate of 58.1%.

South Carolina has an estimated population of 4,255,083 in 2005. This is an increase of 6.1% over 2000. Charleston County is the third most populated county in the state with an estimated 330,368 people living there in 2005. This represents a 6.6% increase over 2000. The 2015 estimate is 351,500 or 16.4%. Not surprisingly, the gender distribution is 49% male and 51% female. The 2003 count was 321,014 with 125,386 households. The growth rate from 1990-2003 was 8.7%. Individual cities had the following population counts in 2005 and percentage change since 2000:

City of Charleston	106,712	9%
City of North Charleston	86,313	6%
Mt. Pleasant	57,932	20%
Folly Beach	2,263	7%

Population growth is expected to remain positive in the area for the foreseeable future. Factors contributing to growth are: location in the Southeastern US, coastal in-migration, a moderate climate, a diverse economy, the growing retirement population, and exposure of the area due to tourism.

ECONOMY

Employment: The Charleston region long considered the military to be the backbone of its economy. When an announcement was made on June 27, 1992 that the Charleston Naval Base, Shipyard Fleet Industrial Supply Center and Defense Distribution Depot would be closed by April 1996, a major economic upheaval was expected. The timing was particularly unfortunate given that the national economy was in recession or just emerging from recession. This announcement meant that almost 22,000 military and civilian jobs would be phased out in the tri-county area. At that point, the military employed almost 19% of the total labor force in the tri-county area, and the loss of 22,000 jobs would be a loss of over 8% of the total employment base.

The regional employers, governments and business organizations had not previously functioned in cooperation, instead they had followed "go it alone" or competitive policies. Following the announcement the three local governments and business community united to recruit industry and promote the area as a tourist destination. A new public-private joint venture was formed to promote the economic development of the region, not only to replace the lost military jobs, but to attract new business and diversify the employment base.

In fact, in 2002, the Charleston Regional Development Alliance announced more than 1,670 new jobs. At the end of 2003, the economy showed signs of recovery that persisted since the slump in 2001. The lingering war in Iraq kept the markets uncertain even with the 2003 summers historic lowering of the Feds prime interest rate to 4.25%.

In 2004, 1,923 new jobs were created in Charleston County. Approximately 645 of those jobs were projected to be at Vought Aircraft Industries, makers of fuselage structures. The unemployment rate in Charleston in mid 2006 was a low 6.5%. At the end of 2003/ beginning of 2004, the prime was at 4%. The rate increased to 5.25% in 2005 and 7.25% at the beginning of 2006 signaling a healthy economy.

The overall change in the employment base before and after the base closure is explored in the table that follows.

Employment By Sector

	1988		1990		1992		1994		1996		1997		1999 Forecast	
Construction	13,400	7%	16,000	8%	12,100	6%	11,900	6%	13,300	6%	16,000	7%	18,500	8%
Manufacturing	20,500	11%	21,500	10%	20,600	10%	20,600	10%	20,850	10%	21,300	10%	22,500	9%
TCPU*	10,700	6%	11,100	5%	10,600	5%	11,000	5%	11,300	5%	12,000	5%	12,900	5%
Trade	47,600	25%	51,500	25%	49,800	24%	53,100	25%	54,700	26%	55,300	25%	60,600	25%
FIRE**	8,800	5%	7,800	4%	7,900	4%	8,200	4%	8,300	4%	8,400	4%	8,700	4%
Services	40,600	21%	46,100	22%	48,700	24%	54,600	26%	56,300	27%	59,900	27%	68,700	28%
Government	51,600	27%	53,200	26%	55,000	27%	49,400	24%	47,500	22%	48,900	22%	50,500	21%
Total Non-Ag	193,200	100%	207,200	100%	204,700	100%	208,800	100%	212,250	100%	221,800	100%	242,400	100%
Tot Civ Labor Force	225,780		236,460		246,180		243,440		243,960		257,060		275,500	
Employment	216,840		228,440		232,620		228,480		231,340		246,660		266,200	
Unemployment	4.0		3.4		5.5		6.1		5.2		4.0		3.4	

Source: Center for Business Research, Charleston Metro Chamber of Commerce

* Transportation, Communications and Public Utilities

** Finance, Insurance and Real Estate

As the table above illustrates, there was only a relatively small and short-lived overall dip in employment after the announcement of the military closures. Approximately 2% of the workforce lost their jobs between 1992 and 1994, or 4,140 jobs, net. Employment in 1996, when the closures were fully implemented, was down only ½ of one percent from 1992, for a net loss of 1,280 jobs. Since that time, the economy has rebounded, with a gain of over 30,000 jobs. The economy is less reliant on the Government sector, with the percent employment in that sector down from highs of 27% to around 21% in the late 90's. The Services sector has seen the most growth, fueled primarily by tourism. Employment in the Services sector has grown from 21% to 28%. Most of the other sectors have seen only modest changes.

The regional alliance has shifted its focus in the past couple of years (beginning in the late 90's) from job replacement to targeting specific types of higher paying jobs. The emphasis is on more manufacturing jobs, high tech jobs and the Port of Charleston. The Tri-County area has made great strides in attracting new industries and businesses to replace the closed Charleston Naval Base and Shipyard. This diversity has brought recognition to the area as *INC. Magazine*, in December 2000, rated Charleston the sixth best city in America to start and grow a company. In March 2000 *Business Facilities Magazine* rated the Charleston-North Charleston area in the top ten as a small business hot spot in the United States.

Since 1995, new businesses have invested $5 billion in the tri-county region and in May 2005 Forbes magazine rated Charleston metro area as in the top 50 for it strong economy.

Trends in Consumer Price Index for Southeast Region per US Dept of Labor all urban consumers:

Yr	CPI
2000	1.7%
2001	1.7%
2002	1.9%
2003	1.9%

The following is a list of major employers that were located within the area as of 2004.

Employer	Service	# or employees
US Navy	National Defense	16,219
MUSC	Education Medical	8,200
Chas Air Base	National Defense	5,594
Chas Cnty Schools	Education	5,000
Roper St. Francis	Medical	4,000
Piggly Wiggly	Grocery	2,500
Wal-Mart	Retail	2,153
Mead Westvaco	Paper	1,596
Sci Rea Corp	Comm Systems	450
Milcom	Elec. Systems	365
Hil-Rom	Hospital Beds	268

Port of Charleston: The Port of Charleston is one of the leading international container cargo ports on the Southeast and Gulf Coasts. Its current facilities consist of four inter-modal facilities that handle container, bulk, and break- bulk cargo from more than 50 steamship lines. In 1989, the port handled 8.5 million tons of cargo. In 1997 the port handled 12.6 tons of cargo, an increase of 48% over the ten-year period. The Port has continued to show dramatic increases, with the growth in TEU's (twenty-foot equivalent units) between 1996 and 2001 at 57%.

In 1994, The Port spent over $90 million dollars to expand its Wando Terminal facility. There has been much debate lately about the future of the Port. The State Ports Authority has pursued

and aggressive expansion policy. The port announced major plans for expansions at the former Navy Base in North Charleston. Facing increasing competition from the Port of Savannah, expansion is necessary to keep the port competitive. The replacement of the Cooper River bridges will allow taller, larger container ships to dock in Charleston thus helping with the expansion.

Tourism: Tourism is has a large impact on the Tri-County area, attracting an estimated 4.1 million visitors in 2001 up from 3.9 million in 2000 and 3.3 million in 1999. Local tourism industry executives indicate the impacts of the September 11 terrorism attack was short term and appears limited, as the numbers preceding indicate. The annual economic impact of tourism in the low country is over $3.2 billion dollars, up form $2.6 billion dollars in 1999. Attendance at area attractions has been fairly stable at 1.2 to 1.3 million visitors since the early 1990's.

In 1995, Charleston was proclaimed on of the top ten travel destinations in the world (*Conde Nast Traveler,* and *Glamour Magazine).* In 1999 Charleston was one of only two U.S. cities listed by *Travel and Leisure* magazine as one of the top ten cities worldwide with the best tourism value.

The Charleston area has a wide variety of hotels, motels and inns to accommodate the tourist and business travelers who come to the area. Construction of such facilities in the late 1990's was brisk. Due to additions to the market and the events of September 11, room rates (ADR) have been erratic.

In 2000, the ADR was $109.59, it fell to $107.80 in 2001, rose to $109.21 in 2002, and fell to $105.72 at the end of 2003. Occupancy in 2001 was at 64.70%, in 2002 it was at 67.83%, and in 2003, occupancy was at 68.24%. Overall Revenues were down 2.7% from 2000 to 2001, were up 9.4% in 2002, and up just under 1% in 2003. The inventory of rooms rose from 12,509 in 2001 to 13,097 in 2003. This is only a 4.7% increase in rooms from 2001 to 2003, much lower than the 10% increase from 1998 to 2001.

Retail Sales: The retail sector recorded sales of $12.1 billion in 1999, up from $11.2 billion in 1998 and $10.4 billion in 1997. The overall increase over the last ten years has been 71%, well ahead of the change in the CPI. The increase in sales has been steady over the period despite the recession of the early 90's and the Navy Base closure in the early to mid 90's.

Housing Market and Construction: The ability of the area to attract new business has spurred growth in the housing market and in all types of construction. With nearly 90 miles of beaches, 27 golf courses, several museums, theaters, a dance company and symphony orchestra along with professional baseball, soccer and hockey teams the area was voted by *Employment Review* as one of the top 20 places in America to live and work. This has resulted in the previously indicated population increase of more than 8% since the last census in 1990.

Housing sales and values were impacted in the early to mid 90's by the base closure and overall soft US economy. From 1990 to the 3rd quarter of 1996, the average home price in the area rose by almost 5% annually. However, that does not tell the whole story. In 1992, the average price of a home in the Tri County area was $121,339. The average price fell to $114.8 K in 1993 and

$117 K in 1994, before rising back to $121,446 in 1995. Basically, the very early 90's saw price increases as did the 1995 to 1996 time period, but the 1992 to 1995 period saw declines.

Since 1995, the average sales price of a home has risen to $194,327 (2000), an increase of 60% over 5 years. The number of properties sold has more than doubled, from 5,268 homes in 1992 to 11,320 homes in 2001. From 1992 through 1996, the number of sales annually stayed in the 5,100 to 5,800 range each year. After 1996, the increase in home prices was dramatic, with a record number of sales in 2000 at 12,101 homes sold, before falling to 11,320 homes in 2001. Price increases were sharply curtailed in 2001, rising only 3 to 4% annually. However, home prices did still go up at a rate in excess of inflation.

Construction of homes has also soared in the last decade, with permits issued nearly doubling from the number issued in the early 90's. Unfortunately, the popularity of the area has impacted affordability in a negative way. Despite record numbers of new homes being built in all price ranges, growth in the area has driven up housing prices faster than wages. The prices of new and existing home, coupled with the inability to afford starter homes has spurred some of the large increases in apartment construction in the last two to three years. This in turn, is leading to over-building in some segments of the apartment market, primarily the area east of the Cooper.

Single-family permits are predicted to increase to 4,800 in 2003 and 5,150 in 2004 countywide. Commercial construction permits were expected to total $275 million in 2003 and increase to $290 million in 2004

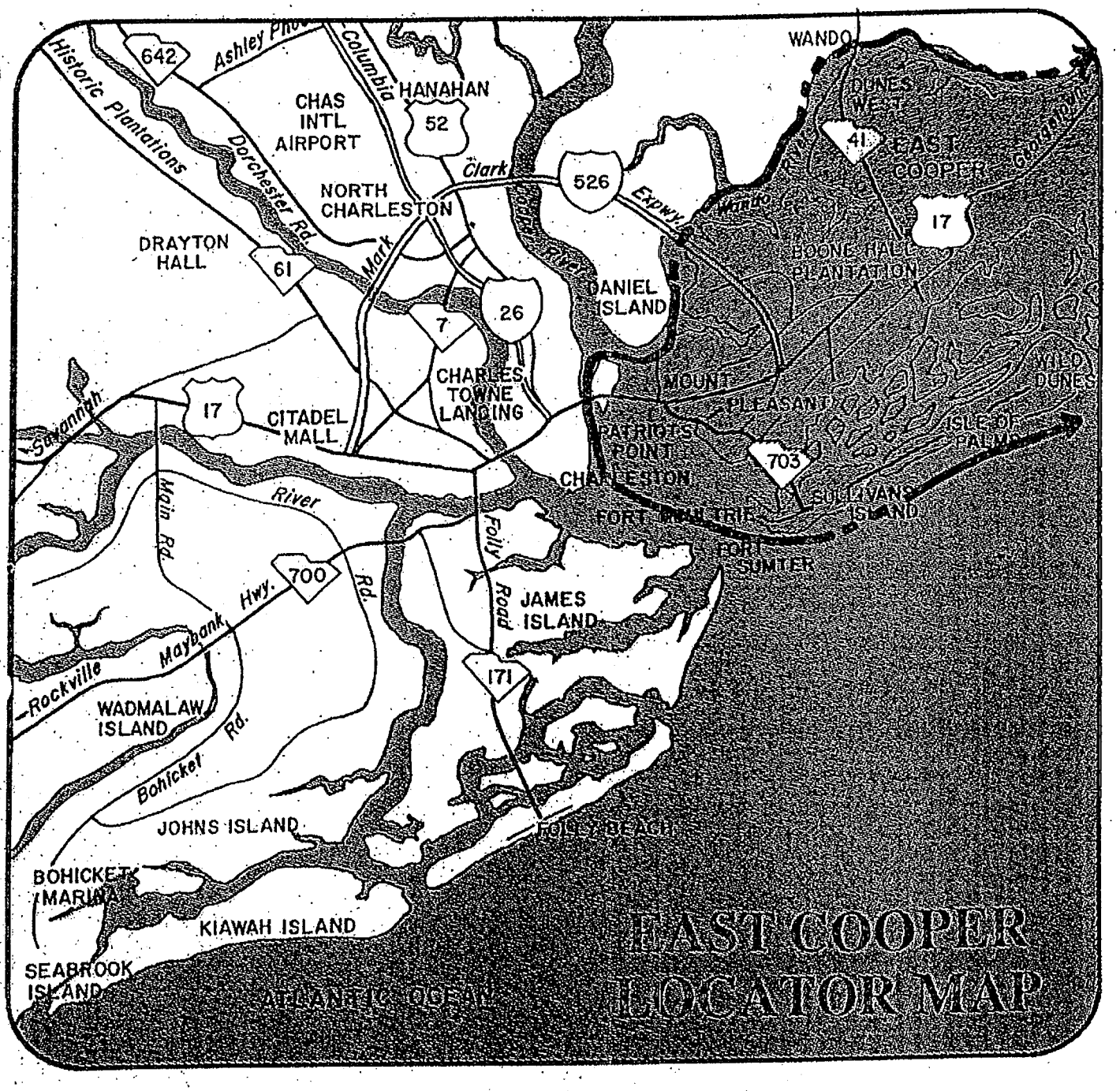
SUMMARY

The tri-county area benefits from its' coastal southeastern location in many ways. The moderate climate attracts retirees. The climate, beaches, and historic attractions lead to visitors, some of whom relocate to the area, and/or choose to relocate businesses or open branches. The southeast in general is growing and benefiting from in-migration, with Charleston being no exception. Similarly, an overall trend to coastal in-migration benefits the area.

The closure of the Navy base and shipyard in the early to mid nineties has reduced dependency on a single industry, and the accompanying layoffs provided a solid base of labor for new employers in the region. The regional governments and businesses have learned to cooperate to the betterment of all. Overall, the economic outlook for the area is good for the foreseeable future.

RELEVANCE TO THE SUBJECT PROPERTY

The subject property is located in a suburb of the Charleston County known as Mount Pleasant. It is an area that has seen a steady rise in recent commercial and residential development. The Mount Pleasant area is discussed in the following Neighborhood Analysis.


Historic Plantations
642
Ashley Pho
Columbia
HANAHAN
52
CHAS INTL AIRPORT
Dorchester Rd.
Clark
526
Expwy.
WANDO
DUNES WEST
41
EAST COOPER
NORTH CHARLESTON
Mark
17
DRAYTON HALL
61
BOONE HALL PLANTATION
DANIEL ISLAND
26
7
CHARLES TOWNE LANDING
MOUNT PLEASANT
WILD DUNES
ISLE OF PALMS
17
CITADEL MALL
Savannah
PATRIOTS POINT
703
CHARLESTON
SULLIVANS ISLAND
FORT MOULTRIE
FORT SUMTER
River
Main Rd.
700
Hwy.
Rd.
Folly Road
JAMES ISLAND
Maybank
Rockville
171
WADMALAW ISLAND
Rd.
Bohicket
JOHNS ISLAND
FOLLY BEACH
BOHICKET MARINA
KIAWAH ISLAND
SEABROOK ISLAND
ATLANTIC OCEAN
EAST COOPER
LOCATOR MAP

NEIGHBORHOOD ANALYSIS- MOUNT PLEASANT

The subject property is located in an area commonly referred to as East Cooper, which is dominated by the Town of Mount Pleasant. From 2000 to 2002 the Town of Mt. Pleasant grew by 20% making it the sixth largest municipality in South Carolina. The Mt. Pleasant area is bounded on the west by the Cooper River and on the south and southwest by the intercoastal waterway. To the north lies the Wando River. The approximate northwest boundaries are being pushed out past Hwy 41 as development continues to move to the north.

GEO-POLITICAL JURISDICTION

Politically, the area is partially contained in the Town of Mt. Pleasant, and is partially in an unincorporated area of Charleston County. Public services are provided by one of the following: the Town of Mt. Pleasant or Charleston County. The Town of Mt. Pleasant provides full municipal services while Mt. Pleasant water works provides water and sewer with electric service provided by either South Carolina Electric and gas or Berkeley Electric, depending on the properties location.

TRANSPORTATION

The neighborhood is well served by major transportation routes providing linkage to employment and all parts of the state. US Highway 17, Interstate 526, and the Isle of Palms connector are the major corridors in the area.

US Highway 17 is a major east/west route, not only in Charleston, but also in the low country as a whole (the coastal areas of South Carolina). SC Highway 17 provides access across the South Carolina line to Savannah, Georgia continues northward through most of coastal South Carolina. In Charleston County, Highway 17 links the north rural areas to the Mt. Pleasant area, and continues through the heart of peninsula Charleston to West Ashley and the southern rural areas of the county. Most of SC Highway 17 inside Charleston County is either a four lane or six-lane highway, as is much of its length in South Carolina. This route remains the most heavily traveled coastal highway in South Carolina, as the interstates do not closely parallel the coast.

Interstate 526 links the east and westbound I-26 to the East Cooper and West Ashley areas, providing access on both ends to SC Highway 17. Also known as the Mark Clark Expressway, I-526 provides a partial beltway around Charleston. It currently terminates in Mt. Pleasant at its intersection with Highway 17. No expansion is planned in the East Cooper area due to the limited landmass lying east of the highway.

The completion of the I-526 Bridge and Hwy 17 interchanges has fueled almost explosive growth in those areas in the past five years. This is expected to continue for the foreseeable future.

SC Highway 17 is a north south route connecting the Mt. Pleasant area with The City of Charleston and Georgetown. While it is a very heavily traveled route, it is predominantly a four-lane route on most of its length. It is the major route on which much of the commercial and residential development for the area has taken place.

RETAIL DEVELOPMENT & TRENDS

The Mt. Pleasant and East Cooper area has experienced substantial growth in retail sales over the past several years and served by numerous community and neighborhood centers. Additional shopping opportunities are provided by discounters such as Wal-Mart, and Costco, and by category killers such as Home Depot and Lowe's.

Retail sales in the area grew by 49% from 1993 to 1998 increasing from 365 million to 545 million. Much of the new retail space is located in the areas where I-526 and Highway 17 converge. However, growth continues to push to the northwest, as this is the area with the most available land, where residential growth is currently occurring. Further in, closer to the City of Charleston, land is densely developed with little room for new development.

HOTEL DEVELOPMENT AND TRENDS

Hotel and motel development has boomed in the Mt. Pleasant area in recent years, with the room supply increasing by 355 rooms from 1997 to 1998 for a total of 1,438 rooms at the end of 1998. This represents an increase in room supply of almost 32%. Room rates increased from an average of $63.52 a night in 1997 to $80.78 in 1998 while occupancy went from 66.58% in 1997 to 69.98% in 1998. Most of the new hotel development is on the Hwy 17 corridor.

The Charleston area has a wide variety of hotels, motels and inns to accommodate the tourist and business travelers who come to the area. Construction of such facilities in the late 1990's was brisk in Mount Pleasant. Due to additions to the market and the events of September 11, room rates (ADR) have been erratic but have trended upwards.

Year	ADR	% Occ.	# of Rms	% Ch Revenues
1998	$81.48	71.64 %	1,438	
2001	$88.01	59.66 %	1,985	- 6.1
2002	$85.99	65.41 %	2,183	+20.6
2003	$90.40	66.50 %	2,184	+ 9.4 %

There was a sizeable increase in room counts between 1998 and 2001, resulting in reduced occupancy and room rates. However, beginning in 2002, the trend reversed itself, despite a 10% addition in rooms, and overall revenues have risen 30%, well over the simple increase in rooms would justify.

MULTIFAMILY DEVELOPMENT AND TRENDS

According to Real Data Apartment research publication as of June 2003 the Mt. Pleasant market had a total of 4,137 units with an overall rental rate that averaged $833 and an overall vacancy rate that averaged 7.1%.

Specials and leasing incentives were limited at this time, with existing complexes offering only very short-term incentives, or incentives on a few select (unpopular) units. Newer complexes that had just come on line were reducing or eliminating incentives except on select units.

RESIDENTIAL DEVELOPMENT

Statistically, the Mt. Pleasant area has boomed with a growth rate of 20% between1995 and 1998 making it the sixth largest municipality in the state of South Carolina. Dwelling permits

increased from 518 in 1990 to 1,599 in 1998. Most of the residential growth is occurring off the SC Highway 17 corridor or off Hwy 41. Large new subdivisions are being developed that offer many amenities.

Comparing December 1999 sales to December 2000 the Mt. Pleasant area has saw increases in residential property values of approximately 28%. With an average selling price of $204,816 in December of 1999 and $262,949 in 2000 along with a 97-98% sales price to list price ratio and an average of 50 days on the market in December 1999 as compared to 69 in December 2000. The outlook for single-family residential development remains positive as long as the area and national economy remain fairly stable.

SUMMARY & CONCLUSIONS

The Mt. Pleasant area benefits from a good transportation base, its central location. Mt. Pleasant area is one of the fastest developing areas in the state. Historically, its various markets have been strong, and have always provided an upscale suburban setting. Growth in the area is expected to be solid and escalating for the next few years, particularly in the areas near I-526/Highway 41 and Highway17.

HIGHEST AND BEST USE ANALYSIS

Highest and best use is defined by The Appraisal Institute as:

> "the reasonably probable and legal use of vacant land or an improved property, that is physically possible, legally permissible, appropriately supported, financially feasible, and that results in the highest value."

(ref. The 12th Edition of *The Appraisal of Real Estate*, page 306, The Appraisal Institute)

Land is valued to its highest and best use as though vacant. In cases where a site has existing improvements on it, the highest and best use may very well be different from the existing use. The possibility of demolishing existing improvements is the foundation of the concept of highest and best use as though vacant. Basic appraisal premises recognize that the existing use will continue until the land value at its highest and best use exceeds the total value of the property in its existing use. In instances where the highest and best use is different from the existing use, buildings and improvements are considered to have contributory value only.

Generally accepted professional appraisal practice dictates that in appraising improved property, the highest and best use be estimated under two different premises. First, the highest and best use of the site as if it were vacant and available for development must be explored. The second analysis estimates the highest and best use of the property as presently improved.

The highest and best use of the subject property as if vacant is estimated to be development with multifamily housing exhibiting no signs of functional inutility, conforming to current market trends.

The subject improvements are a legal and conforming use of the site with the existing improvements making maximal use of the site areas available for development. The buildings contribute substantially to the property value. The highest and best use of the subject property as presently improved is estimated to be continued use and operation of the existing apartment complex, coupled with correction of any noted items of deferred maintenance. This use will continue until such time as the current improvements no longer contribute to value, which is not likely to occur in the foreseeable future.

APPRAISAL PROCESS

The appraisal process represents a logical analysis of the factors that bear upon the present value of real estate. In this valuation process, there are three commonly accepted approaches typically used by appraisers are:

- the Cost-Less-Depreciation Approach,
- the Direct Sales Comparison Approach (often called the Market Approach), and
- the Income Capitalization Approach

The appraiser *considered* the use of all three approaches to value. All of the approaches are generally considered meaningful, but the applicability of each approach will vary with the individual property type. In appraising properties similar to the subject, the appraiser believes that the Sales Comparison and Income Approaches to value are the primary methods used in estimating value by market participants. The appraisal approach used in the valuation of the subject property is, therefore, limited to the Sales Comparison and Income Approaches. Information on the appraisal procedure(s) used in valuing the subject property can be found following.

DIRECT SALES COMPARISON APPROACH

The Direct Sales Comparison approach to appraising is based upon the premise that the market value of a property is directly related to the prices of comparable, competitive properties. The principal of substitution is basic in this approach to value as it implies that a prudent purchaser will pay no more for a property than would be required for an acceptable alternative available in the market.

In the Direct Sales Comparison Approach, a systematic procedure is followed adjusting each comparable to the subject property to impute an indicated value. The steps of the procedure are as follows:

1. Research the market to obtain information on sales transactions, listings, and offerings to purchase properties similar to the subject property.
2. Verify the information by confirming that the data obtained are factually accurate and that the transactions reflect arm's-length market considerations.
3. Select relevant unit's of comparison (e.g., dollars per square foot, or per income multiplier) and develop a comparative analysis for each unit.
4. Compare the subject property and comparable sale properties using the elements of comparison and adjust the sale price of each comparable appropriately or eliminate the property as a comparable.
5. Reconcile the various value indications produced from the analysis of comparable sales into a single value indication or a range of values.

ADJUSTMENTS TO THE COMPARABLE SALES

Elements of comparison as applied to each of the comparable sales in relation to the subject property consist of real property rights conveyed, financing, conditions of sale, changes in market conditions, location, and physical characteristics. Each of these elements can be analyzed by relevant units of comparison, but often, the most relevant unit of comparison is economic.

In the comparable selection process, the appraiser chose only properties that were as similar as possible to the subject, within the local market, to eliminate most of these largely subjective adjustments. A grid summarizing the sales follows, and data sheets for each sale can be found following.

In my opinion adjustments for physical features do not reflect the major concern of buyers and sellers of income producing properties. The foremost concern is usually the property's income producing capability. A potential purchaser for property similar to the subject is usually more concerned with the income producing potential and the length of the income stream and relative risks involved in the income potential of a property than with elements of physical comparison, unless gross discrepancies exist. This is discussed further in the following analysis.

ECONOMIC ADJUSTMENTS TO THE SALES

I believe that the most significant element of comparison between the properties that have sold and the subject property is the income producing characteristics of the sales (i.e. the income and expenses stream as related to the sales price). Consequently, I have collected information on income and expenses for each of the comparable sales. This is presented following.

SALES GRID

Transaction	1	2	3
Location	Cypress Cove	Alexan Belle Hall	Alta Shores
Date	12-05-02	06-25-04	10-05-04
Sales Price	$19,325,000	$23,050,000	$15,162,786
Conditions of Sale	0	0	0
Financing	0	0	0
Adjusted Value	$19,325,000	$23,050,000	$15,162,786
# of Units	264	240	240
Leaseable Area	274,104 SF	244,320 SF	229,548 SF
Average Size	1,038 SF	1,018 SF	956 SF
PGI	---	---	---
VAC	---	---	---
EGI	$ 2,502,000	$ 2,568,000	$2,148,034
EGI/Unit	$ 9,477/Un	$ 10,700/Un	$ 8,950/Un
Expenses	$ 996,596	$ 975,360	$ 927,360
Exp/Unit	$ 3,775	$ 4,064	$ 3,864
% to EGI	39.8 %	38 %	43.2%
NOI	$ 1,505,404	$ 1,592,640	$ 1,220,674
NOI/Unit	$ 5,702/Un	$ 6,636/Un	$ 5,086/Un
OAR	7.79	6.91	8.05
EGIM	7.72	8.98	7.06
NIM	12.84	14.47	12.42

EFFECTIVE GROSS INCOME MULTIPLIER

The first method of economic comparison commonly used in the Sales Comparison Approach to value is the use of the Gross or Effective Gross Income multiplier. The EGIM's for the three sales range from 7.06 to 8.98. The EGI per unit for the comparables is as shown previously, ranging from $8,950 to $10,700. The subject's EGI per unit is estimated at $10,483, which is within the range shown for the comparables.

The indicated value for the subject, given its EGI, and the range of EGIM's is from $14,801,996 to $18,827,468. The subjects EGI/unit falls between Comparables One and Two. This would tighten the range to $16,327,000 to $18,827,000 with an average of $17,500,000. The Effective Gross Income Multiplier compensates for differences in vacancy, because it is based on income after vacancy. It does not compensate for variances in expenses, which a prudent investor would also consider.

NET INCOME MULTIPLIER

The net income multiplier is the inverse of the capitalization rate. The NIM for the comparables ranges from 12.42 to 14.47. Given the subject's estimated NOI per unit of $6,299, and the NIM's of 12.42 to 14.47. the indicated range of values based on the NIM would be $15,646,716 to $18,229,306.

Again, the subject net income per unit is between that of Comparables One and Two, which would indicate a multiplier range of 12.84 to 14.47 with an average of 13.66. Applying the subject's NOI/unit of $6,299 to 13.66 would indicate a value of $17,200,000. The Net Income Multiplier accounts for income and expenses but does not account for changes in capitalization rates due to market changes or due to the strength or weakness of the individual property and its market or neighborhood.

MOYE APPROACH

The Moye Approach adjusts for all of the factors, gross income, net income, capitalization rates in effect as of the date of value, and individual strengths and weaknesses of the property. The application of adjustments for **Economic Conditions** based on the Moye Approach, involves the comparison of NOI per unit of comparison ($/unit, $/SF, etc) of the comparable sales to the NOI of the subject property. In addition, it includes a comparison of the capitalization rates.

The appropriate NOI adjustment is calculated by deducting the net operating income per square foot of the comparable from the net operating income per square foot of the subject and dividing the result by the net operating income per square foot of the comparable. This type of adjustment is considered to include investor consideration for factors such as location, age/quality/condition, etc. The *stabilized* NOI is estimated at $1,259,711 (see reconstructed operating statement in the Income Approach). To illustrate the methodology, the appropriate adjustment in the subject analysis for Sale No. 1 is calculated as follows:

(NOI/SF Subject - NOI/SF Comparable) ÷ NOI/SF Comparable

($5.37 - $5.49) ÷ $5.49 = -2.2%

The same calculation is performed for each of the comparable sales in order to determine the NOI/SF adjustment factor.

In the analysis of an investor's purchase decision, I also considered the overall Capitalization Rate as an indication regarding a potential purchaser's confidence in the ability of the property to consistently produce income for a specific length of time. In simple terms, an investor who purchases a property at a relatively low capitalization rate expects a greater return through increased rent levels, occupancy, management efficiencies, and/or escalation at reversion, or he or she anticipates less risk.

A property purchased at a higher capitalization rate usually reveals a lack of ability to alter occupancy, inability to increase the income stream (relative to inflation), over-building in the market place, or problems with either the local or national market sector in the near term. Since most purchases are not truly cash transactions, but are leveraged through loans, prevailing interest rates on real property also can alter cap rates. Changes in market rates can increase or decrease the yield on the leveraged portion of the property.

An adjustment for the overall rates indicated from the sales involves a procedure similar to the adjustment for the net operating income per square foot. The estimated subject overall capitalization rate is deducted from the estimated comparable overall capitalization rate and the result is divided by the comparable overall capitalization rate. In the case of Sale No. 1, the calculation is as follows:

$$(7.5\% - 7.79\%) \div 7.79\%$$
$$= 3.7\%.$$

In this case, the subject, with a lower overall capitalization rate, is considered superior to the comparable, based on the estimated overall capitalization rate and the adjustment is negative. The calculation is performed for all of the comparable sales to estimate the appropriate overall rate adjustment.

The theory and detailed application of the economic indicator adjustment can be found in an article prepared by Andrew J. Moye, MAI for the Appraisal Journal, April of 1991, entitled *The Use of An Economic Indicator in the Sales Comparison Approach.*

IMPROVED SALES ADJUSTMENT GRID BASED ON DOLLARS/SQUARE FOOT

411Meeting
Charleston

	Subject		Sale No. 1		Sale No. 2		Sale No. 3	
Identification:	Legends		Cypress Cove		Alexan Belle Hall		Alta Shores	
Neighborhood:	Mt. Pleasant		West Ashley		Mt Pleasant		N. Charleston	
County:	Charleston Co.		Charleston Co.		Charleston		Charleston	
Date of Sale:			5-Dec-02		25-Jun-04		5-Oct-04	
Sale Price:			$ 19,325,000		$ 23,050,000		$ 15,162,786	
Conditions of Sale:			Normal		Normal		Normal	
Financing:			Normal		Normal		Normal	
Normal Sale Price:			$ 19,325,000		$ 23,050,000		$ 15,162,786	
Project Size in SF	234,616		274,104		244,320		229,548	
Unadjusted Price/SF			$ 70.50		$ 94.34		$ 66.05	
EGI:	$2,096,658		$ 2,502,000	EGIM 7.72	$ 2,568,000	EGIM 8.98	$ 2,148,034	EGIM 7.06
Expenses / %	$836,947	Exp Ratio 39.9%	$ 996,596	Exp Ratio 39.8%	$ 975,360	Exp Ratio 38.0%	$ 927,360	Exp Ratio 43.2%
/ $/SF		$ 3.57		$ 3.64		$ 3.99		$ 4.04
NOI:	$1,259,711		$ 1,505,404		$ 1,592,640		$ 1,220,674	
Overall Rate:	7.50%		7.79%		6.91%		8.05%	
NOI/SF	$5.37		$ 5.49		$ 6.52		$ 5.32	
Sale Price/SF			$ 70.50		$ 94.34		$ 66.05	
Mkt Conditions @:	0.0%		0.0%		0.0%		0.0%	
Time Adj. $/SF			$ 70.50		$ 94.34		$ 66.05	
ADJUSTMENTS:								
NOI/SF Adjust.			-2.2%		-17.6%		1.0%	
OAR Adjust.			3.7%		-8.5%		6.8%	
Net Adjustment			1.5%		-26.2%		7.8%	
Ind. Value Range/SF:			$ 71.55		$ 69.65		$ 71.21	

IMPROVED SALES ADJUSTMENT GRID BASED ON DOLLARS PER UNIT

Legends
Charleston

	Subject		Sale No. 1		Sale No. 2		Sale No. 3	
Identification:	Legends		Cypruss Cove		Alexan Belle Hall		Alta Shores	
Neighborhood	Charleston Co.		West Ashley		Mt Pleasant		N. Charleston	
County	Charleston Co.		Charleston		Charleston Co.		Charleston Co.	
Date of Sale:			5-Dec-02		25-Jun-04		5-Oct-04	
Sale Price:			$ 19,325,000		$ 23,050,000		$ 15,162,786	
Conditions of Sale:			Normal		Normal		Normal	
Financing:			Normal		Normal		Normal	
Normal Sale Price:			$ 19,325,000		$ 23,050,000		$ 15,162,786	
Project Size in Units	200		264	Units	240	Units	240	Units
Unadjusted Price/Unit			$ 73,201		$ 96,042		$ 63,178	
EGI:	$2,096,658		$ 2,502,000	EGIM 7.72	$ 2,568,000	EGIM 8.98	$ 2,148,034	EGIM 7.06
Expenses / %	$836,947	Exp Ratio 39.9%	$ 996,596	Exp Ratio 39.8%	$ 975,360	Exp Ratio 38.0%	$ 927,360	Exp Ratio 43.2%
/ $/Unit	$ 4,185		$ 3,775		$ 4,064		$ 3,864	
NOI:	$1,259,711		$ 1,505,404		$ 1,592,640		$ 1,220,674	
Overall Rate:	7.50%		7.79%		6.91%		8.05%	
NOI/Unit	$ 6,299		$ 5,702		$ 6,636		$ 5,086	
Sale Price/Unit			$ 73,201		$ 96,042		$ 63,178	
Market Conditions @:	0.0%		0.0%		0.0%		0.0%	
Time Adj. $/Unit			$ 73,201		$ 96,042		$ 63,178	
ADJUSTMENTS:								
NOI/Unit Adjust.			10.5%		-5.1%		23.8%	
OAR Adjust.			3.7%		-8.5%		6.8%	
Net Adjustment:			14.2%		-13.6%		30.7%	
Value Range/Unit:			$ 83,580		$ 82,950		$ 82,558	

SUMMARY & SALES COMPARISON CONCLUSIONS

The adjustment grids, which preceded, summarize the pertinent data for each sale and the adjustments for income characteristics that have been applied to each sale. The income projections used in the analysis assume stabilized market rates and market vacancy as of the effective date of value.

I considered the use of a Gross Income Multiplier, a Net Income Multiplier and the Moye Approach. The indications of value were as follows

	Low Indication	High Indication	Most Comparable
GIM	$14,801,996	$18,827,468	$17,500,000
NIM	$15,646,716	$18,229,306	$17,200,000
Moye/SF	$16,341,004	$16,786,775	$16,700,000
Moye/Unit	$16,511,600	$16,716,000	$16,600,000

The range of adjusted dollar per square foot indications from the comparable sales is from $69.65/SF to $71.55/SF, or a variance of just over 2.7%. The mean is $70.80/SF and the median is $71.21/SF. The value range indicated is $16,341,004 to $16,786,775, with an indicted value of $16,500,000 million.

The range of adjusted dollar per unit indications from the comparable sales is from $82,558 unit to $83,580/unit, or a variance of just over 1.2%. The mean is $83,029/Unit and the median is $82,950/Unit. The range of values indicated from the per unit analysis is from $16,511,600 to $16,716,000 with an indicated value near $16,500,000 million.

The sales are from the local market and are as similar as possible to the subject in all applicable characteristics. The sales illustrate a relatively tight range of values, which is a good indicator of the reliability of this approach. The NIM, GIM and Moye Approach all reveal a tight range of values and a tight reconciled range.

Based on the sales information presented, the Market Value as of December 31, 2003 is estimated at $17,000,000:

SEVENTEEN MILLION DOLLARS

$17,000,000

INCOME APPROACH TO VALUE

In the case of the subject property, the income capitalization approach is relevant in the estimation of value since the operations are capable of generating income. The premise of the income approach in appraising real estate is that an indication of value can be derived by discounting the net income stream(s) that a property will produce under prudent management at an appropriate rate that reflects the current market conditions, trends, and investor requirements. The approach is based on the principal of anticipation of future benefits, with a basis that income attributable to real estate may be converted into value by one of two methods:

1) Direct Capitalization, or
2) Yield Capitalization.

DIRECT CAPITALIZATION

Direct Capitalization is the process of converting a single-years stabilized income expectancy into value by dividing the net operating income to real estate (NOI) by a market derived overall capitalization rate. Typically, Direct Capitalization is used for stabilized properties, smaller properties, owner occupied properties or for properties where leasing for short terms is common (generally, less than one year or 1 to 5 years).

The purpose of the income analysis is ultimately to derive an estimate of the net income for the subject property. This is accomplished by considering various elements of *both* the subject property and comparable properties in the *market* with respect to the income producing capabilities of the property.

The methodology of income analysis includes the following steps:

1. Estimate the potential gross income (PGI) for the property.

2. Establish the Effective Gross Income (EGI) by estimating a reasonable allowance for vacancy and collection losses, and subtracting that from PGI. This estimate is based upon an analysis of *stabilized vacancy* and reasonable forecasts for the subject property in its market.

3. Establish the Net Operating Income (NOI) by estimating total operating expenses incurred for the property and estimating reserves, if appropriate. Deduction of total *stabilized* operating expenses and reserves from EGI results in the net operating income (NOI) for the subject property. Expenses are estimated from analysis of both the operating history for the subject property and analysis of comparable properties.

4. NOI is divided by the capitalization rate to arrive at value. Capitalization rates are extracted from sales of similar properties in the market, examination of national and regional rates, and/or the band of investments technique.

SUBJECT RENT RATES AND ANALYIS

The effective date of the appraisal is 12-31-2003 for a 2005 tax appeal. In order to estimate the value of the property the rents used should be the stabilized rents that were signed as close to the effective date of value as possible. The income that is needed to project a 12/31/03 value is the income stream that would be received in 2004. The income approach is based on the *anticipation of future benefits*, in this case the anticipation of the income stream that would be received in 2004. On December 31, 2003 the subject had 80 one-bedroom, 96 two-bedroom and 24 three-bedroom units for a total of 200 units.

The *Carolina Real Data Apartment Market Reports* dated July 2003, March 2004, September 2004, and March 2005 showed the base rents being received for the subject property were:

	6-03	2-04	8-04	2-05
1/1	$685	$685	$710	$710
1/1	$685	$685	$740	$740
1/1	$740-$770	$770	$785	$785
1/1	$950	$950	$950	$950
2/2	$885-905	$885-$905	$910	$910
2/2	$885-$905	$885-$905	$940	$940
2/2	$1,025	$1,025	$1,085	$1,085
2/2	$1,150	$1,150	$1,185	$1,185
2/2	$975	$975	$1,010	$1,010
3/2	$1,225	$1,225	$1,225	$1,225
3/2	$1,375	$1,375	$1,335	$1,375

The above information indicates that there was a rate change near the middle of 2004. Three types of units did not increase in rental rate from February of 2003 to February of 2004. The remainder increased anywhere from 1.7% to 8%, with most of the increases being between 3% and 5% over the year.

On December 31, 2003 the subject had 80 one-bedroom, 96 two-bedroom and 24 three-bedroom units for a total of 200 units. Based on the information discussed earlier the rental rates for 12-31-03 were:

NUMBER	SF	RENT	$/SF	MNTH RENT	ANNUAL
8	787	$685	0.87	$5,480	
24	787	$685	0.87	$16,440	
40	875	$770	0.88	$29,600	
8	997	$950	0.95	$7,600	
8	1,198	$895	0.747	$7,160	
8	1,198	$895	0.747	$7,160	
8	1,222	$1,025	0.84	$8,200	
8	1,369	$1,150	0.84	$9,200	
64	1,394	$975	0.70	$62,400	
16	1,536	$1,225	0.80	$19,600	
8	1,596	$1,375	0.86	$11,000	
200				$183,840	$2,206,080

VACANCY AND COLLECTION LOSS

The Real Data Apartment Market Report shows a vacancy history on the subject as follows:

2-03	6-03	2-04
7%	8%	2.5%

Based on rent survey provided by the owner the subject vacancy was as follows:

9-03	10-03	11-03	12-03
6%	6%	6%	2%

From the above information it appears the property has been running a vacancy rate between 2%-8%. In the apartment market a 2% vacancy would be hard to maintain, however the subject has been able to maintain a rate of 6% for several months. This would be more in line with the rates found in competing complexes.

In a survey done by the Assessors Office, other Type A complexes in Mt. Pleasant reported vacancy rates between 5-8% in December 2003.

Based on the above information a vacancy rate of 7% is reasonable for the subject property.

Collection losses for similar type properties run between 1/2-1.5% of potential gross income. An amount of 1% is reasonable for the subject property.

Based on the above information a rate of 8% for vacancy and collection loss is reasonable for the subject property.

CONCESSIONS

Due to the large amount of units coming on line in the Mt. Pleasant market, concessions were common in 2000 and 2001. During the most competitive times, it was not unusual to find properties giving one month free on a 13-month lease, which equates to 8% of the market rent. However, based on rental data from a number of apartment complexes and based on conversations with apartment mangers and leasing agents, not all tenants received the full discount and discounts varied from month to month depending on occupancy, traffic, and time of year. As the market stabilized, concessions became more limited and were typically given only on hard to rent/unpopular units. Sometimes the concessions were as small as the waiving of administrative fees or deposits and amounted to less than 4% of PGI.

According to a rental survey performed by the Assessor's office in December 2003, concessions were becoming less frequent on Type A properties as compared to the concessions in 2000-2001. The survey indicated that occupancy levels were running in the mid to low 90 percent range, and due to this, most of the complexes were giving only limited concessions on select (unpopular) units. This same survey conducted in December of 2004 indicated that most of the complexes were not offering concessions at all.

The Real Data Apartment Market Report showed that in February of 2004 the subject was offering one month free on one and two bedroom units and by August of 2004 was not giving any concessions. Due to the limited but varied concessions, being offered an allowance of 4% is reasonable for the subject for concessions

OTHER INCOME

Other income is income from late fees, vending, and forfeited deposits, returned check fees, interest income, break lease fees, garage rental, and application fees. Based on the owners Statement of Operation ending 12-31-2002 this figure amounted to 7.9% of rental income collected or $138,992, in 2003 it was 8.1% or $158,690 and in 2004 it was 7.8% or $151,781. Based on the history of the property an amount of 8% of rental income collected appears to be a reasonable estimate of other income for this property.

EXPENSES

The owner has supplied income and expense summaries numbers dated 12-31-2002, 2003 and 2004. To see if the subjects' expenses are in line with similar properties, expenses of other Type A complexes in the area were reviewed. Detailed data was available on these properties. From these expenses a percentage to PGI and a dollar per unit can be established. Applying these percentages to the subjects estimated PGI gives us the projects expenses for 2004 to arrive at a 12/31/03 value.

EXPENSE DISCUSSION AND EXTRACTION

General & Administrative – This expense includes expenses for office supplies, telephone, bookkeeping, printing, postage, legal fees, credit checks, bank charges, marketing cost, and manager

rental unit. This expense typically runs between 2.5% - 3.5% of PGI. A rate of 3% is reasonable.

Utilities & Services – This includes all utilities. This expense is typically 2.5-3% of PGI. The owner has stated that the tenants are responsible for all utilities, since the units are metered separately for water, sewer and electricity. However, there would be some expense associated with vacant units and common areas. A rate of 1.5% of PGI is reasonable.

Repairs & Maintenance – This expense includes all outside contracted work, appliance repairs, any plumbing, electric, roof, a/c, or other minor repairs, landscaping cost, turnover cost, parking lot maintenance and general cleaning or repair materials. This expense is typically 5-6% of PGI.

Payroll – This is the expense associated with all wages, bonuses, commissions, payroll taxes and employee insurance associated with the complex that are not considered contracted labor. This expense is typically 7-9% of PGI. A rate of 8% to PGI is reasonable.

Management – This is a fee charged by the management company. The owners are the management company for the project and have a contract with HUD that the management fee will be 4.53% of residential and miscellaneous income collected. The agreement also states the management fee is capped at $40 per month per unit and if the rent is increased, the percentage of the management fee should be adjusted not to exceed the $40 per month per unit cap. A copy of the agreement is in the addendum.

Insurance – This includes property insurance. This item has increased dramatically and now runs 3%-4% depending on the location of the property. The owner has provided actual expense numbers for insurance and these will be used for the subject. The amount was $93,559 or 4.2% of PGI. A copy is in the addendum.

Taxes – This includes property taxes from the reassessment and typically amounts to 8-10% of PGI. A rate of 9% to PGI is reasonable.

Reserves –This is an expense that is used supplement the cost to replace capital items. The property is required to carry reserves in the amount of $4,403.17 by HUD, which equates to $52,838/yr or $264/unit/yr. For this appraisal $264/unit will be used, and will be used in calculating the cap rates for the comparable sales. The market rate for reserves is typically around $250, so the HUD requirement is very close to market.

SUBJECT'S RECONSTRUCTED 2004 EXPENSE DATA DESCRIPTION	AMOUNT	%PGI
ADMINISTRATIVE	$66,182	3 %
UTILITIES	$33,091	1.5 %
MAINENANCE	$121,334	5.5 %
PAYROLL	$176,486	8 %
MANAGEMENT	$95,000	4.3 %
INSURANCE	$93,559	4.2 %
TAXES	$198,457	9.8 %
RESERVE	$52,838	2.6 %
TOTAL	$836,947	
PER UNIT	$4,184	37.9% of PGI

The comparable sales had expenses ranging from $3,290 to $3,813/Unit which is lower than the expenses projected above. However, the projections are for 2004, and the sales occurred in 1999, 2000 and 2001, indicating projection dates of 2000, 2001 and 2002. The sales have expense ratios of 32%, 32.7% and 40.8%, with a median of 32.7% and a mean of 35.2%. The projected expense ratio of 36% is considered well supported by the sales. Using the information previously discussed in this report a stabilized reconstructed operating statement for the subject property is shown below with an effective date of December 31, 2003. The operating statement reflects the anticipated income and expenses for the upcoming 2004 operating year:

RECONSTRUCTED OPERATING STATEMENT

POTENTIAL GROSS INCOME (PGI)	$2,206,080
VACANCY & COLLECTION	
LOSS AT 8%	($176,486)
CONCESSIONS 4%	($88,243)
NET RENTAL INCOME	$1,941,350
OTHER INCOME	$155,308
EFFECTIVE GROSS INCOME (EGI	$2,096,658
EXPENSES $4,184/unit	(836,947)
NET OPERATING INCOME (NOI)	$1,259,711 ($6,299/Unit)

CAPITALIZATION RATE

The capitalization rate, or overall rate, is expressed as a relationship between net operating income and sales price. An overall rate was abstracted from sales of similar apartment developments that are summarized below:

Sale No.	Name	# /Units	Date	OAR
1	Cypress Cove	264	12-02	7.79%
2	Alexan Belle Hall	240	6-04	6.91%
3	Alta Shores	240	4-03	8.05%

The Overall Rate (OAR) extracted from sales of type A complexes indicates a range from 6.91% - 8.5%. All occurred within a reasonable time frame given the effective date of value.

Sale One is located in West Ashley and contains 264 units. It is the oldest sale of the three shown. It has a lower NOI per unit ($5,702/unit), which is less than the subject at ($6,299unit).

Sale Two is the most recent sale and is located in Mt. Pleasant. It is approximately two miles from the subject and contains 240 units. Its NOI per unit is higher than the subjects at $6,636/unit vs, $6,299 for the subject. Sale Two is closest to the subject in location and is the most recent sale.

Sale Three is located in North Charleston. It's NOI of $5,086/unit is lower than the subject's at $6,299/unit. The sales price was a pre-construction contract arranged with the builder for purchase once the property was complete.

According to Korpacz Investment survey, the rates for apartment complexes have varied since 1998, due primarily to falling interest rates. The changes in those rates reported by Korpacz are as follows:

KORPACZ NATIONAL OAR FOR APARTMENTS

	Range	Average
4TH Quarter 2002	6.5 – 10	8.26
1ST Quarter 2003	6 – 10	7.45
4TH Quarter 2003	5.5 – 9.25	7.45
1ST Quarter 2004	5.5 – 9.25	7.25

~~Korpacz shows rates during 2003 averaging 7.45% and rates in early 2004 at 7.25%. The local~~ market sales in 2003 and 2004 ranged from 6.91% to 8.05 %, which is very similar to the national survey rates.

Based on all of the foregoing, a cap rate (OAR) of 7.45% has been selected for the subject property, based on the sales that were available, and the changes in capitalization rates over the time period in question as derived from Korpacz.

Applying the previously calculated NOI of $1,259,711 to a capitalization rate of 7.5% the following information is revealed:

NOI	$ 1,259,711
Capitalization Rate	7.5%
Indicated Value	$16,796,147

The value indication for the subject property, as of December 31, 2003 is indicated at $16,796,147 based on the income approach to value. This has been rounded to:

$16, 800,000

SIXTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS

CONDOMINIUM SALES COMPARISON

The subject property was appraised as an apartment complex for the reassessment with an assigned value $16,644,000 or $83,220/unit using sales of complexes that were purchased to be run as multi-family complexes, as shown earlier in this report.

Strong demand for housing in the Charleston market raised prices for single-family homes beyond the reach of many first time homebuyers. Investors soon started purchasing existing apartment complexes and converting them to condominiums. These sales prices were often higher than if the property were being purchased to be run as an apartment complex. Below are the purchase prices of several Type A complexes that were converted to HPR's (condominiums):

Complex	Date	#/units	Sale	$/unit
Enclave	11-04	300	$30,500,000	$101,667
Southampton	4-05	240	$28,855,000	$120,229
Long Grove	3-05	272	$37,250,000	$136,949
Carrington	11-05	244	$31,500,000	$129,098
Merritt	1-06	230	$28,000,000	$121,739
River Oak	6-06	360	$48,000,000	$133,333

In April of 2006, a deed was filed on the subject property with an affidavit of value of $33,050,000, which indicates a value of $165,250/unit. In late 2005, the owners of The Legends started marketing the property as condominiums to begin sales in 2006. (See add in addendum)

EQUITY COMPARISON

The effective date of value for this appraisal is December 31, 2003. That date is the effective date of value for all properties for Tax Year 2005. The properties equity position relative to similar properties must be explored.

The premise for an equity appraisal is to determine if a given property is or is not "over appraised" when compared to similar properties. In the case of the subject property, we need to compare it to other Type A apartment complexes in its competing area.

The units of comparison for apartments vary widely. One could look at an Effective Gross Income Multiplier (EGIM), Net Income Multiplier (NIM), a Value Per Unit, or Dollars Per Square Foot. To compare an income producing property solely on a Value Per Unit or Dollars Per Square Foot is not relevant unless all the other data is taken into consideration, such as net operating income (NOI), expenses and capitalization rates. Since the income approach to value was used consistently for apartment complexes in Charleston, the exploration of equity is based on income comparisons.

The subject property was appraised at $16,644,000 for equity purposes.

The chart below compares the subject property to other Type A properties in Mt. Pleasant.

COMPLEX	# UNITS	CONC	VAC	EXP/UNIT	NOI/UNIT	OAR	$/UNIT	EGIM
BELLE HALL	240	0	8%	$3,900	$7,500	8.3%	$90,355	8.07
LONG GROVE	272	0	8%	$3,900	$7,399	8.3%	$89,150	7.95
RIVER OAKS	360	0	8%	$3,900	$7,079	8.3%	$85,289	7.83
SUBJECT	200	**0**	8.3%	$3,900	**$7,022**	8.3%	$84,597	7.78
SOUTHAMPTON	240	0	8%	$3,900	$6,505	8.3%	$78,375	7.62
CARRINGTON	244	0	10%	$3,900	$6,028	8.3%	$72,646	7.54

The above chart shows that the subject property is not "over appraised". In fact, the chart indicates the subject property falls near the middle of the list when compared to other Type "A" properties in Mt. Pleasant. All of this indicates that the subject property is appraised equitably.

Based on the above information the equity value is:

$16,644,000

SIXTEEN MILLION SIX HUNDRED FORTY FOUR THOUSAND

RECONCILIATION AND VALUE CONCLUSION

The subject property is a 200 unit apartment complex. The assessor's market value estimate for the subject property is being appealed for tax year 2005, which requires a values analysis with a date of December 31, 2003.

All three traditional approaches to value were *considered* in the valuation process with respect to the valuation of the subject property. However, the appraiser chose to rely on the Sales Comparison and Income Approaches to value, as it best reflects the actions of buyers and sellers in the market place.

The Sales Comparison Approach is based upon the premise that the market value of property is directly related to the prices of comparable, competitive properties. The principle of substitution is basic in this approach to value as it implies that a prudent purchaser will pay no more for a property than would be required for an acceptable alternative available in the market.

The Income Approach recognizes the value of the subject property based on its cash flow potential or the anticipation of future benefits, specifically net or gross income. Many investors in the subject market area use this approach to guide them in making decisions on the purchase of similar properties. The income approach relies on the premise that properties with comparable risk and return features will provide comparable future benefits. This approach is most reliable when adequate documentation exists on comparable market rental rates, property operating expenses and risk/return requirements.

Market Value as of December 31, 2003

Sales Comparison Approach	$17,000,000
Income Approach	$16,800,000

Giving equal weight to the sales and income approaches to value the estimated Market Value of the subject property is:

$16,900,000

SIXTEEN MILLION NINE HUNDRED THOUSAND

EXPOSURE AND MARKETING TIME

Reasonable *exposure* on the open market is implicit in the analysis of Market Value. Exposure time, as stated in the Uniform Standards of Professional Appraisal Practice (USPAP 2002 Edition-Page 92), may be defined as follows:

> "The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive and open market."

Exposure time always precedes the effective date of the appraisal, and is a factor of supply and demand, adequate, sufficient and reasonable marketing efforts, and pricing at a level that market would consider reasonable. Exposure time is generally expressed as a range and is usually derived from an analysis of one or more of the following:

- statistical information about days on market preceding the effective date of the appraisal
- information gathered from sales verifications and/or interviews with market applicants.
- and/or interviews with market participants.

A reasonable exposure time for the subject property was developed by consulting Korpacz Investor Surveys, to see what national marketing trends have been in the last few years. Additionally, conversations with market participants (local buyers, sellers and agents) have been considered. It is estimated that the necessary exposure time for the subject property would be 12 months. This estimate is predicated on supply and demand in relative balance, active and reasonable marketing efforts, and proper pricing of the property.

Exposure time and *marketing time* are not the same concept. As discussed, exposure time always precedes the effective date of the appraisal. Marketing time is always presumed to be after the effective date of the appraisal. Marketing time for the subject property is defined in the Uniform Standards of Professional Appraisal Practice (USPAP 2006 Edition, Page 128) as:

> ".....the reasonable marketing time is the opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal. Marketing time differs from *exposure time*, which is always presumed to precede the effective date of the appraisal."

A reasonable marketing time is the period a prospective investor would or seller would forecast to sell the subject property immediately after the date of value, at or near the estimated market value. Marketing time is essentially a measure of the risk associated with the liquidity of the property as an investment. The reader is cautioned that the future price of the subject property (at the end of the marketing time) may or may not equal the appraised value estimate due to changes in the market that occur after completion of the appraisal.

Future prices depend on unpredictable and unforeseeable changes in the physical real estate, on economic and demographic changes, on the money supply, interest rates and financing, available alternative investments and on future supply and demand characteristics for the property type, as well as many other factors. Therefore, at the end of the marketing time, the price realized may be more or less than the appraised value.

Based on the premise that present market conditions are the best indication of future performance, a prudent seller or investor would forecast that, under the current market conditions, the subject property would require a marketing time of six months to sell.

It is important to note that the ultimate decision as to what price to ask, when to accept a particular offering price, and how to account for the assets during the interim rest with the client. Properties exposed on the market for extended periods of time may have been listed at unrealistic prices. Similarly, properties that are exposed at reasonable prices may have shorter marketing periods, and may be better indicators of exposure time. Consequently, estimates based on comparable sales may or may not provide a good estimate of the subject marketing time depending on the original asking price and/or subsequent price reduction necessary to consummate the sales.

Therefore, if the subject property were to be listed at a level which is consistent with, or slightly above, the expected sales price (market value), then the marketing time would be expected to be at the lower end of the range indicated. This premise assumes supply and demand will be in reasonable balance.

ASSUMPTIONS AND LIMITING CONDITIONS

- The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. Condition of subject property is assumed to be the same on the effective date of the appraisal as on the inspection date. The dates of inspection were September 29, 2003 and April 24, 2007.

2. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. No responsibility is assumed for legal descriptions.

3. Responsible ownership and/or management of the property are assumed.

4. The property is appraised free and clear of any and all liens or encumbrances unless otherwise stated.

5. If the appraiser has provided a sketch in the appraisal report, it is intended to show approximate dimensions of the improvements and is included only to assist the reader of the report in visualizing the property and understanding the appraiser's estimation of its size. Maps and exhibits are included the assist the reader in visualizing the property, neighborhood, etc. and are for reader reference only.

6. The appraiser has estimated the value of the land in the cost approach (if the cost approach was used) at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are not valid if they are so used.

7. It is assumed that all applicable zoning and other use regulations and restrictions have been complied with, unless otherwise stated in this report.

8. It is assumed that all required licenses; certificates of occupancy; consents or other legislative or administrative authority has been or can be obtained and/or renewed for any use on which the value estimate contained in this report is based.

9. The appraiser has noted in the appraisal report any adverse conditions (such as needed repairs, deferred maintenance, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, subsoil or structure that render it more or less valuable.

10. The appraiser is not aware of adverse environmental conditions (including the presence

of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable. The appraiser has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations unless non-compliance is stated, defined and considered in the report.

11. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

12. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

CERTIFICATION

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and
- I have no personal interest or bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant appraisal assistance to the person(s) signing this report.

APPRAISER: Stephen J. Everman

SIGNATURE: Stephen J Everman DATE SIGNED: 4/27/07

TITLE:	Senior Staff Appraiser
LICENSE #:	CGM 771
STATE:	SC
Exp.	6-30-2007

Appraiser [X] did [ ] did not inspect subject property.

101 Meeting Street, Suite 300
P.O. Box 427
Charleston, SC 29402

CHARLESTON COUNTY
SOUTH CAROLINA

Office of the County Assessor
(843) 958-4100

APPRAISER'S QUALIFICATIONS

NAME:	Stephen J. Everman
POSITION:	Appraiser V
S.C. CERTIFIED GENERAL MASS REAL ESTATE APPRAISER:	License # CGM 771
DATE EMPLOYED:	November 12, 1990
EDUCATIONAL BACKGROUND:	Bachelor of Arts in Economics Wofford College
REAL ESTATE COURSES:	**Appraisal Institute:** Real Estate Appraisal Principles Basic Valuation Procedures Basic Income Capitalization General Application Advanced Income Capitalization Apartment Appraisal **IAAO:** Valuing Property Affected by Environmental Contamination Fundamentals of Mass Appraisal **National Association of Independent Fee Appraisers:** Uniform Standards of Professional Appraisal Practice **The Citadel:** Basic Income Capitalization Residential Appraisal Reports Using the URAR Form Appraisal Reports, Standards and Practices, Ethics and Law Residential Property Case Study for CR Designation
PREVIOUS EMPLOYMENT:	G.C. Services, Office Manager

Rev. 6/02

ADDENDA

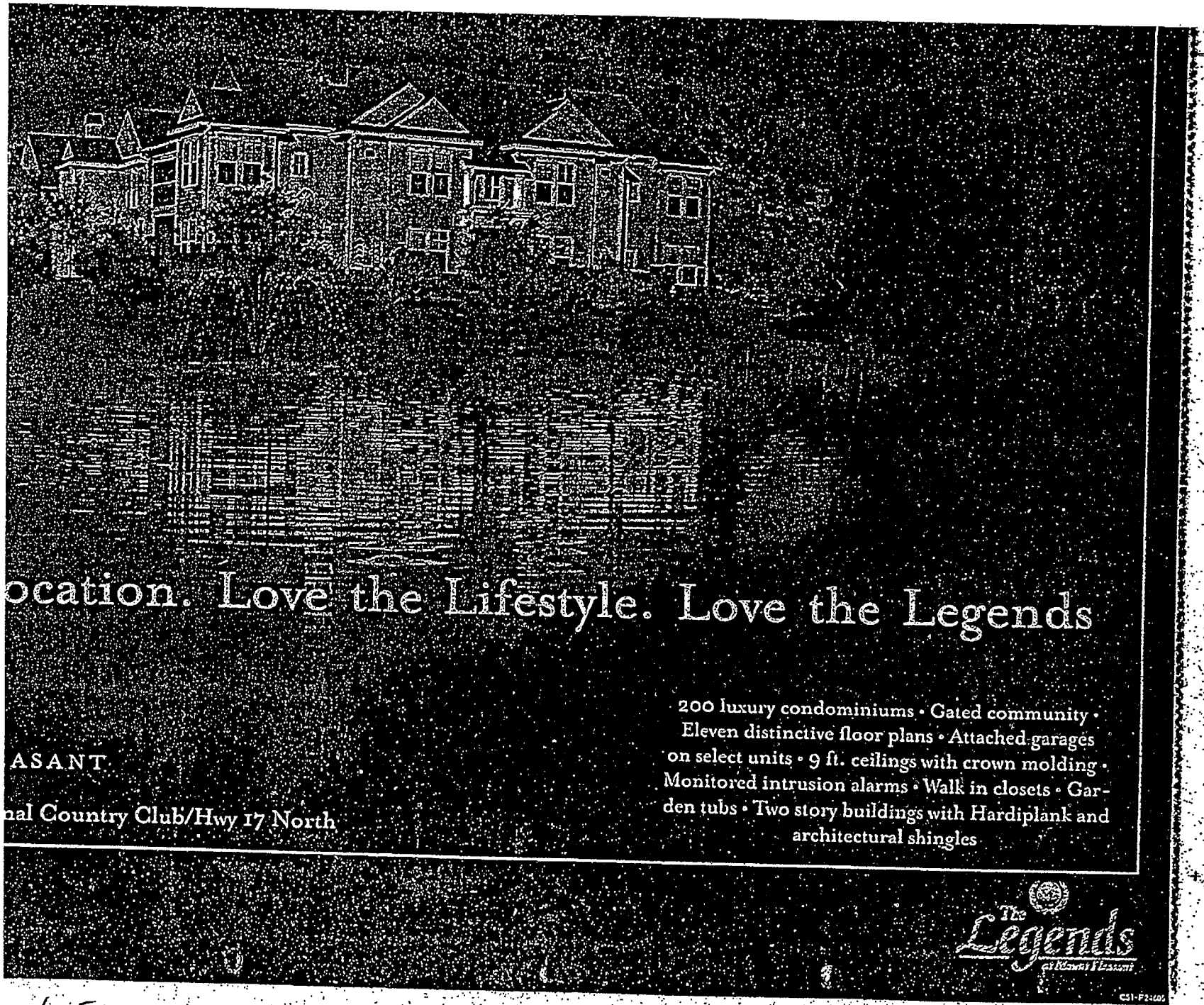
To determine if the values decreased as of December 31, 2004 a pro-forma will be done on the property. This would be the projection of the income stream to be received in 2005.

SUBJECT RENT RATES AND ANALYSIS

The income that is needed to project a 12/31/04 value is the income stream that would be received in 2005. The income approach is based on the *anticipation of future benefits*, in this case the anticipation of the income stream that would be received in 2005. On December 31, 2004 the subject had 80 one-bedroom, 96 two-bedroom and 24 three-bedroom units for a total of 200 units.

The *Carolina Real Data Apartment Market Reports* dated March 2004, September 2004, and March 2005 showed the base rents being received for the subject property were:

	2-04	8-04	2-05
1/1	$685	$710	$710
1/1	$685	$740	$740
1/1	$770	$785	$785
1/1	$950	$950	$950
2/2	$885-$905	$910	$910
2/2	$885-$905	$940	$940
2/2	$1,025	$1,085	$1,085
2/2	$1,150	$1,185	$1,185
2/2	$975	$1,010	$1,010
3/2	$1,225	$1,225	$1,225
3/2	$1,375	$1,335	$1,375



0822

28/05 Post + Courier

On December 31, 2004 the subject had 80 one-bedroom, 96 two-bedroom and 24 three-bedroom units for a total of 200 units. Based on the information discussed earlier the rental rates for 12-31-04 were:

TYPE	NUMBER	SF	Rent	MNTH RENT	Annual
1/1	8	787	$710	$5,680	
1/1	24	787	$740	$17,760	
1/1	40	875	$785	$31,400	
1/1	8	997	$950	$7,600	
2/2	8	1,198	$910	$7,280	
2/2	8	1,198	$940	$7,520	
2/2	8	1,222	$1,085	$8,680	
2/2	8	1,369	$1,185	$9,480	
2/2	64	1,394	$1,010	$64,640	
3/2	16	1,536	$1,225	$19,600	
3/2	8	1,596	$1,375	$11,000	
	200			$190,640	$2,287,680

Based on the rental rates calculated earlier in this report the subject property has experienced a 3.7% increase in rental rates between 12-31-03 and 12-31-04.

VACANCY AND COLLECTION LOSS

Over the last several years the subject property has been averaging an 8% vacancy and collection loss. It is reasonable to assume this will continue.

CONCESSIONS

According to a rental survey performed by the Assessor's office in December 2003, concessions were becoming less frequent on Type A properties as compared to the concessions in 2000-2001. The survey indicated that occupancy levels were running in the mid to low 90 percent range, and due to this, most of the complexes were giving only limited concessions on select (unpopular) units. This same survey conducted in December of 2004 indicated that most of the complexes were not offering concessions at all.

The Real Data Apartment Market Report showed that in February of 2004 the subject was offering one month free on one and two bedroom units and by August of 2004 was not giving any concessions. Due to the limited but varied concessions, being offered an allowance of 4% is reasonable for the subject for concessions

OTHER INCOME

Based on the history of the property an amount of 8% of rental income collected appears to be a reasonable estimate of other income for this property.

EXPENSE DISCUSSION

Type A complexes in the area were reviewed. Detailed data was available on these properties. It indicated on average that the expenses, excluding reserves, increased 4.1% from 2003 to 2004.

The Korpacz Real Estate Investor Survey was also reviewed and in a survey done in the national apartment market it shows that the expense change rate between the first quarter of 2004 to the first quarter of 2005 was between 2-3.5% with an average of 2.79%. This is lower than what the local market indicated, but this may be due to the fact that fewer properties were reviewed in the local market survey and the fact that coastal insurance rates are higher than what is found in other parts of the country.

Based on the above information a reasonable estimate would be that expenses, excluding reserves, will increase by 4% from 12-31-03 and 12-31-04. Using the subject 12-31-203 expenses calculated earlier in this report, excluding expenses, and growing them by 4% the subjects total expenses would be $868,311 ($784,109 x 1.04 = $815,473 to this reserves of $52,838 will be added for a total of $868,311).

KORPACZ NATIONAL OAR FOR APARTMENTS

	Range	Average
1ST Quarter 2003	6 – 10	7.45
4TH Quarter 2003	5.5 – 9.25	7.45
1ST Quarter 2004	5.5 – 9.25	7.25
4th Quarter 2004	5.0 – 9.25	7.01
1st Quarter 2005	4.50 – 9.25	6.74

Korpacz shows rates during 2003 averaging 7.45% and rates in 2004 at 7.01-7.25%. The decrease in rates continued in the first quarter of 2005 with the average rate being 6.74%. The local market sales in 2003 and 2004 ranged from 6.91% to 8.05 %, which is very similar to the national survey rates.

Based on all of the foregoing, a cap rate (OAR) of 7.00% has been selected for the subject property, based on the sales that were available, and the changes in capitalization rates over the time period in question as derived from Korpacz.

PROFORMA FOR 12-31-04 VALUATION

POTENTIAL GROSS INCOME (PGI)	$2,287,680
VACANCY & COLLECTION	
LOSS AT 8%	($183,014)
CONCESSIONS 4%	($91,500)
NET RENTAL INCOME	$2,013,166
OTHER INCOME	$161,053
EFFECTIVE GROSS INCOME (EGI	$2,174,219
EXPENSES $4,341/unit	(868,311)
NET OPERATING INCOME (NOI)	$1,305,908 ($6,530/Unit)

Applying the previously calculated NOI of $1,305,908 to a capitalization rate of 7.0% the following information is revealed:

NOI	$ 1,305,908
Capitalization Rate	7.0%
Indicated Value	$18,655,829

The value indication for the subject property, as of December 31, 2004 is indicated at $18,655,829 based on the income approach to value. This has been rounded to:

$18, 500,000

EIGHTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS

LEGENDS CALCULATIONS OF FINANCING

TYPICAL TERMS OF LOCAL FINANCING AS OF 1-5-04 BASED ON THREE BANKS WAS:

LTV 80% FOR 15YRS AT 6% WITH A 5YR CALL.
ONE BANK HAD A STRAIGHT LINE OF 80% FOR 15YRS AT 7.87%.

THE SUBJECT PROPERTY HAS A 40YR NOTE AT 7.1% WITH AN LTV OF 90% THAT STARTED 1-01 WITH PMTS OF $99,913.65.

COMPARISON

SUBJECT PROPERTY WAS APPRAISED FOR $16,644,000 FOR THE REASSESSMENT WITH AN EFFECTIVE DATE OF 12-31-03.
IF THE PROPERTY HAD MARKET FINANCING IT WOULD RESULT IN THE FOLLOWING:

$16,644,000 X .80 = $13,315,200 FINANCED FOR 15YRS AT 6%
IF THE PROPERTY WERE FINANCED THROUGH A BANK THE MONTHLY PMTS WOULD BE $112,361.

THE SUBJECTS PROPERTY PAYMENTS ARE $99,913.65 + $6,503.42 (MIP) = $106,417/MNTH

THIS INDICATES THE SUBJECT PROPERTY HAS MONTHLY PAYMENTS THAT ARE LESS THAN CONVENTIONAL FINANCING WITH NO CALL FEATURE.

COST OF MTG

THE Rm OF THE MTG IS AS FOLLOWS

MKT	.80 X .101 = .081 OR 8.1%
ASSUMTION	.90 X .0754 = .6079 OR 6.79%

BASED ON THE TERMS OF THE LOANS THE CURRENT MTG ON THE PROPERTY IS LESS THAN THE MARKET RATES.

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, sea existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regardi den estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Pape duction Project (2502-0305), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. ncy may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

MANAGEMENT BRANCH

Do not send this form to the above address.

Project name: THE LEGENDS AT MT. PLEASANT City, State:	FHA project no: 054-35605	Date: 1-1-02
		Section 8 no:

Acting on behalf of KEYSTONE LEGENDS I, L.P. the Project Owner (Owner), and KEYSTONE LEGENDS, INC. the Management Agent (Agent), we make the following certifications and agreements to the United States Department of Housing and Urban Development (HUD) regarding management of the above project.

1. We certify that:

a. We will comply with HUD requirements and contract obligations, and agree that no payments have been made to the owner in return for awarding the management contract to the agent, and that such payments will not be made in the future.

b. We have executed or will execute, within 30 days after receiving the approval(s) required by paragraph b below, a Management Agreement for this project The Agreement provides / will provide that the Management Agent will manage the project for the term and fee described below. Changes in the fee will be implemented only in accordance with HUD's requirements

(1) Term of Agreement: 1

(2) Fees:

(a) 4.53 DMB % of residential income collected;

(b) 4.53 % of commercial income collected;

(c) 4.53 DMB % of miscellaneous income collected (This percentage must not exceed the percentage in (2)(a) above).

(d) Special Fees No ☐ Yes ☐ If yes, describe in paragraph 4 of Attachment 1.

(3) Calculation of Estimated Yield (See Attachment 1.)

c. We will disburse management fees from project income only after:

(1) We have submitted this Certification to HUD;

(2) HUD has approved the Agent to manage this project; and

(3) HUD has approved the management fee (if required).

d. We understand that no fees may be earned or paid after HUD has terminated the Management Agreement.

e. If HUD notifies me of an excessive management fee, I, the Agent, will within 30 days of HUD's notice either:

(1) Reduce the compensation to an amount HUD determines to be reasonable and

(2) Require the administrator to refund to the project all excessive fees collected, or

(3) Appeal HUD's decision and abide by the results of the appeal process, making any required reductions and refunds within 30 days after the date of this decision letter on the appeal.

f. If HUD holds the residential management fee yield harmless under the transition provisions of Chapter 3, Section 4 of HUD Handbook 4381.5,

(1) We understand that HUD will adjust the management fee percentage each time HUD approves a rent increase.

(2) We agree to be bound by that percentage until the next rent increase or until HUD approves a different fee, pursuant to our request.

We will, if the project is subsidized by HUD, select and admit tenants, compute ll rents and assistance payments, recertify tenants and carry out other ly contract administration responsibilities in accordance with HUD Hand. 4350.3 and other HUD instructions.

3. We agree to:

a. Comply with this project's Regulatory Agreement, Mortgage & Mort Note, and any Subsidy Contract or Workout / Modification Agreement.

b. Comply with HUD handbooks, notices or other policy directives that re to the management of the project.

c. Comply with HUD requirements regarding payment and reasonablen of management fees and allocation of management costs between management fee and the project account.

d. Refrain from purchasing goods or services from entities that have ident of-interest with us unless the costs are as low as or lower than arms-leng open-market purchases.

4. The Agent agrees to:

a. Ensure that all expenses of the project are reasonable and necessa

b. Exert reasonable effort to maximize project income and to take advanta of discounts, rebates and similar money-saving techniques.

c. Obtain contracts, materials, supplies and services, including the prepar tion of the annual audit, on terms most advantageous to the project.

d. Credit the project with all discounts, rebates or commissions (including a sales or property tax relief granted by the State or local government) received.

e. Obtain the necessary verbal or written cost estimates and document th reasons for accepting other than the lowest bid.

f. Maintain copies of such documentation and make such documentatio available for your inspection during normal business hours.

g. Invest project funds that HUD policies require to be invested and take reasonable effort to invest other project funds unless the owner specifically directs the Agent not to invest those other funds.

5. We certify that the types of insurance policies checked below are in force and will be maintained to the best of our ability at all times. Fidelity bonds and hazard insurance policies will name HUD as an additional payee in the event of loss. Note: For any box not checked, attach an explanation as to why you cannot obtain that type of insurance. Such situations should be extremely rare.

a. ☒ Fidelity bond or employee dishonesty coverage for

(1) all principals of the Agent and;

(2) all persons who participate directly or indirectly in the management and maintenance of the project and its assets, accounts and records. Coverage wil be at least equal to the project's gross potential income for two (2) months.

b. ☒ Hazard insurance coverage in an amount required by the project's Mortgage.

c. ☒ Public liability coverage with the Agent designated as one of the insured.

6. The Agent agrees to:

a. Furnish a response to HUD's management review reports, physical inspection reports and written inquiries regarding the project's annual financial statements or monthly accounting reports within 30 days after receipt of the report or inquiry.

b. Establish and maintain the project's accounts, books and records in accordance with:

(1) HUD's administrative requirements;

(2) generally accepted accounting principles; and

(3) in a condition that will facilitate audit.

evious editions are obsolete

b. HUD, the General Accounting Office (GAO), and those agencies' representatives may inspect :

(1) any records which relate to the project's purchase of goods or services,

(2) the records of the Owner and the Agent, and

(3) the records of companies having an identity-of-interest with the owner and the agent.

c. The following clause will be included in any contract entered into with an identity-of-interest individual or business for the provision of goods or services to the project: "Upon request of HUD or (name of owner or Agent), (name of contractor or supplier) will make available to HUD, at a reasonable time and place, its records and records of identity-of-interest companies which relate to goods and services charged to the project. Records and information will be sufficient to permit HUD to determine the services performed, the dates the services were performed, the location at which the services were performed, the time consumed in providing the services, the charges made for materials, and the per-unit and total charges levied for said services." The owner agrees to request such records within seven (7) days of receipt of HUD's request to do so.

8. We certify that any Management Agreement does not contain the type of "hold harmless" clause prohibited by HUD.

9. We agree to include the following provisions in the Management Agreement and to be bound by them:

a. HUD has the right to terminate the Management Agreement for failure to comply with the provisions of this Certification, or other good cause, thirty days after HUD has mailed the owner a written notice of its desire to terminate the Management Agreement.

b. In the event of a default under the Mortgage, Note or Regulatory Agreement, HUD has the right to terminate the Management Agreement immediately upon HUD's issuance of a notice of termination to the Owner and Agent.

c. If HUD exercises this right of termination, I, the Owner, agree to promptly make arrangements for providing management that is satisfactory to HUD.

d. If there is a conflict between the Management Agreement & HUD's rights nd requirements, HUD's rights & requirements will prevail.

e. If the Management Agreement is terminated I, the Agent, will give to the Owner all of the project's cash, trust accounts investments and records within irty (30) days of the date the Management Agreement is terminated.

, the Owner, agree to submit a new Management Certification to HUD before taking any of the following actions:

a. Authorizing the agent to collect a fee different from the percentages fees and any special fees specified in Paragraph 1 of this Certification:

b. Changing the expiration date of the Management Agreement.

c. Renewing the Management Agreement.

d. Permitting a new Agent to operate the project.

e. Permitting a new Agent to collect a fee.

f. Undertaking self-management of the project.

1. We agree to:

a. Comply with all Federal, State, or local laws prohibiting discrimination against any persons on grounds of race, color, creed, familial status, handicap, sex or national origin, including Title VI of the Civil Rights Act of 1964, Fair Housing Act, , Executive Order 11063 and all regulations implementing those laws:

b. When the head or spouse is otherwise eligible, give families with children equal consideration for admission.

c. Give handicapped persons priority for subsidized units that were built and equipped specifically for the handicapped.

d. If the project receives any form of direct Federal financial assistance, comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975 and all regulations and administrative instructions implementing these laws. The Agent understands that ese laws and regulations prohibit discrimination against applicants or ants who are handicapped or of a certain age.

e. Furnish HUD's Office of Fair Housing and Equal Opportunity any reports a mation required to monitor the project's compliance with HUD's fair

against any employee, applicant for employme
contractor because of race, color, handicap, religion, sex or national o

g. Provide minorities, women and socially and economically disadvant
firms equal opportunity to participate in the project's procurement and
tracting activities.

h. If the project receives any form of direct Federal financial assista
comply with Section 3 of the Housing and Urban Development Act of 1968
its implementing regulations. I, the Agent, understand that this law and
regulations require the project to make training, employment and contrac
opportunities available, to the greatest extent feasible, to lower-income pro
area residents and small businesses.

12. We certify that we have read and understand HUD's definition of "identity
interest" and that the statement(s) checked and information entered below
true. (Check box a or boxes b and / or c.)

a. ☐ No identity-of-interest exists among the Owner, the Agent and
individuals or companies that regularly do business with the project.

b. ☑ Only individuals and companies listed in Section 11a of the M
agement Entity Profile have an identity-of-interest with the Agent.

c. ☐ Only the individuals and companies listed below have an identity-
interest with the Owner. (Show the name of the individual or company; list t
services rendered; and describe the nature of the identity-of-interest relatio
ship. Attach additional sheets, if necessary.)

13. I, the Agent, certify & agree:

a. that the Management Entity Profile, dated_____, is accurat
and current as of the date of this Certification.

b. To submit an updated profile whenever there is a significant change in th
organization or operations of the Management Entity.

14. The items checked below are attached:

- ☑ Attachment 1--Calculation of Est. Yields from Proposed Mgt Fees
- ☐ New Management Entity Profile
- ☐ Updated Management Entity Profile
- ☐ Other (Specify)_____

Warnings:

There are fines and imprisonment—$10,000/5years—for anyone who makes false, fictitious, or fraudulent statements or entries in any matter within the jurisdiction of the Federal Government (18 U.S.C 1001).

There are fines and imprisonment—$250,000/5years—for anyone who misuses rents & proceeds in violation of HUD regulations relative to this project. This applies when the mortgage note is in default or when the project is in a nonsurplus cash position (12 U.S.C 1715z-9).

HUD may seek a "double damages" civil remedy for the use of assets or income in violation of any Regulatory Agreement or any applicable HUD regulations (12 U.S.C 1715z-4a).

HUD may seek additional civil money penalties to be paid by the mortgagor through personal funds for :

(1) Violation of an agreement with HUD to use nonproject funds for certain specified purposes as a condition of receiving transfers of physical assets, flexible subsidy loan, capital improvement loan, modification of mortgage terms or workout. The penalties could be as much as the HUD Secretary's loss at foreclosure sale or sale after foreclosure.

(2) Certain specific violations of the Regulatory Agreement, the penalties could be as much as $25,000 per occurrence (12 U.S.C 1735f-15).

By Project Owner: Name, title, signature, date:
RON FOLLMANN PRESIDENT 7/1/02

By Management Agent: Name, title, signature, date:
RON FOLLMANN PRESIDENT 7/1/02

Project Name: THE LEGENDS | FHA Project No.: 054-35605 | Date: 11/1/02

1 Residential Fee

a. Monthly residential rent potential (from Part A of the most recent HUD-approved Rent Schedule	$ 185,880.00	
b. Line 1a times 0.95 *	$ 176586.00	
c. Percentage fee	4.55 %	DNB
d. Monthly residential fee yield (Line 1b times 1c)	$ 8829.30	
e. Total number of residential units (include rent-free units.)	200 units	
f. Residential fee yield per unit per month (Line 1d divided by 1e.)	$ 44.15 PUPM	DNB

2. Commercial Fee (Describe commercial space, how it is used and what services management provides.)

a. Monthly commercial rent potential (from Part E of the most recent HUD-approved Rent Schedule)	$ N/A	
b. Percentage fee	N/A %	
c. Commercial fee yield (Line 2a times 2b)	$ N/A	

Note: Generally collections must be estimated at 95% of gross potential. If you use a lower percentage, attach an explanation for the collections percentage used. Make sure that any assumption of a lower collections base does not compensate the agent for services for which a special fee will be paid.

Miscellaneous Fee

Percentage fee (not to exceed the residential income fee percentage in Line 1c) N/A %

List any miscellaneous income on which HUD allows a fee to be taken, but on which you have agreed a fee will not be paid.

Special Fees

Show dollar amount(s), purpose(s) and time period(s) covered. Describe performance standards and target dates for accomplishment of special tasks. (Attach additional sheets, if needed.)

An up-front review of the management fee was: ☐ Required ☒ Not required

☑ The management fees quoted in paragraph 1a and explained in Attachment 1 of this Certification are approved.

☐ The management fees quoted in Paragraph 1a and explained in Attachment 1 of this Certification are not approved. The attached letter, dated _____ explains the reasons for this disapproval and sets forth the allowable management fees.

☐ The residential management fee Percentage is held harmless at _____%.

☐ The residential management fee Yield is capped at $ 40.00 PUPM. Each time you approve a rent increase, adjust the management fee Percentage to maintain this yield and enter the information required below.

Effective Date of New Fee %*	Monthly Rent Potential	Collections % Assumed**	Adjusted Management Fee Percentage

* This should be the same date the rent increase is effective.
** 95% unless you approve a different percentage.

Loan Servicer		By Supervisory Load Servicer/Loan Management Branch Chief	
Signature: Dawn M. Beard	Date: 8/21/02	Signature: Sandra Wood	Date: 8/21/02
Name: DAWN M. BEARD		Name: SANDRA Wood	
Title: Project Manager		Title: Supervisory Project Manager	

Recap:

	2002	2003
Package - Service Insurance	$ 63,887.00	$ 86,293.00
Umbrella - Service Insurance	$ 4,104.00	$ 5,205.00
Worker's Comp - Everest Ins.	$ 1,593.00	$ 2,061.00
	$ 69,584.00	$ 93,559.00

This package policy increase was due to Facultative Reinsurance Cost and rate increases. Package increased $ 22,406.00, of which about $ 2,406.00 was due to increased values on buildings and contents. Last year we asked for a $ 2,500.00 deductible in lieu of $ 1,000.00 (savings $1,445.00 per yr) and a $ 5,000.00 deductible in lieu of $ 1,000.00 (savings of $ 2,980.00). Increased deductible was not worth decrease in premium, nor should they be any more of a savings this year.

STATE FARM INSURANCE CO.
130 RIVER LANDING DR. STE 12A
CHARLESTON, SC 29492
843-856-8660 fax 843-856-8747

Invoice No.

INVOICE

Customer

Name: KEYSTONE LEGENDS I, L.P. d/b/a LEGENDS APTS
Address: 1100 LEGENDS CLUB DR.
City: MT. PLEASANT SC 29466
Phone:

Date: 12/19/2003

Qty	Description	Unit Price	TOTAL
1	COMMERCIAL PROPERTY & LIABILITY POLICY	$79,714.00	$79,714.00
1	COMMERCIAL UMBRELLA LIABILITY POLICY	$1,298.00	$1,298.00
	MORTGAGEE:		
	MALONE MORTGAGE CO. AMERICA, LTD		

Payment Details

- ○ Cash
- ◉ Check
- ○ Credit Card

Name
CC #
Expires

SubTotal	$81,012.00
Shipping & Handling	
Taxes	
TOTAL	$81,012.00

Office Use Only

Thank you

05-868
LMP Prop

BKC 581PG755

RETURN TO
Nexsen Pruet Jacobs & Pollard
9 State Street
Charleston, SC 29401

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS that KEYSTONE LEGENDS I, LP (hereinafter referred to as "Grantor") in the State aforesaid, for/and in consideration of the sum of FIVE AND NO/100 ($5 00) DOLLARS THE ASSUMPTION OF MORTGAGE AND OTHER VALUABLE CONSIDERATION, to it in hand paid at and before the sealing of these presents by **LMP PROPERTIES, INC.** (hereinafter referred to as "Grantee"), in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantee, the following described real property, to-wit

THE PROPERTY HEREBY CONVEYED IS DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY EXPRESS REFERENCE

The Grantee herein assumes payment of that certain Mortgage from Keystone Legends I, LP to Malone Mortgage Company America, Ltd, in the original principal amount of $15,891,900 00, and recorded in Book J-327, Page 015, said Mortgage being assigned to Keycorp Real Estate Capital Markets, Inc by instrument dated July 1, 2005 and recorded in Book D-549, Page 357 in the Charleston County RMC Office

TOGETHER with, all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Grantee, its Successors and Assigns, forever

TMS NUMBER 599-00-00-020

GRANTEE'S ADDRESS 93 N Shelmore Blvd
Mt Pleasant, SC 29464

Grantor does hereby bind itself and its Successors and Assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, its Successors and Assigns, against it and its Successors and Assigns, and all persons whomsoever lawfully claiming, or to claim, the same or any part hereof

WITNESS its Hand and Seal this 19th day of April, in the year of our Lord, two thousand six and in the two hundred and thirtieth year of the Sovereignty and Independence of the United States of America

SIGNED, SEALED AND DELIVERED

Lydia Davids

Michele H. Hoag

KEYSTONE LEGENDS I, LP

BY KEYSTONE LEGENDS, INC
ITS GENERAL PARTNER

By _____ (SEAL)
RON FOLLMAN
ITS PRESIDENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 19th day of April 2006, by KEYSTONE LEGENDS I, LP, BY KEYSTONE LEGENDS, INC , ITS GENERAL PARTNER, BY RON FOLLMAN ITS PRESIDENT

Lydia Davids (SEAL)
NOTARY PUBLIC FOR SC

MY COMMISSION EXPIRES 4/24/13

EXHIBIT "A"

Tract B

BKC 581PG757

All that piece, parcel or tract of land, located in the Town of Mount Pleasant, Charleston County, South carolina, and being designated as Tract B on a survey by Thomas & Hutton Engineering Co , dated May 5, 1998, as revised May 26, 1999, recorded in Plat Book ED, Page 197, Charleston County RMC Office as follows

Beginning at the intersection of the northerly right of way of National Drive and the easterly right of way of U S Highway 17 North, said intersection being the True Point of Beginning, thence running along the easterly right of way of U S Highway 17 North N55-43-28 E for 338 58 feet to a concrete monument old

Thence continuing along the easterly right of way of U S Highway 17 North, along a line with a course of N 55-55-31 E for 1320 80 feet to an iron old,

Thence along a line with a course of S 33-22-45 E for 221 20 feet to an iron old,

Thence along a line with a course of N 55-52-12 E for 345 97 feet to an iron old,

Thence along a line with a course of S 26-42-40 E for 328 01 feet to an iron new,

Thence along a line with a course of S-55-26-59 W for 1,856 01 feet to an iron new,

Thence along a line with a course of N 34-33-02 W for 180 00 feet to an iron new,

Thence along a line having a course of S 54-53-23 W for 141 95 feet to an iron new set in the northerly right of way of National Drive,

Thence continuing along the northerly right of way of National Drive, along a line with a course of N 21-16-14 W for 114 55 feet to an iron new,

Thence continuing along the northerly right of way of National Drive, along a curve to the left, having a length of 132 26 feet, a radius of 575 feet, and a chord of N 27-51-42 W for 131 97 feet to an iron new,

Thence continuing along the northerly right of way of National Drive N 34-27-04 W a distance of 140 05 feet to the True Point of Beginning

TOGETHER WITH

Access Parcel (Fee Simple)

All that piece, parcel or tract of land, located in the Town of Mount Pleasant, Charleston County, South Carolina, and being designated as Access Parcel on a survey by Thomas & Hutton Engineering Co , dated May 5, 1998, as revised May 26, 1999, recorded in Plat Book ED, Page 197, Charleston County RMC Office as follows

Commencing at the intersection of the southerly right of way of Old Course Lane and the easterly right of way of U S Highway 17 North, thence running along the southerly right of way of Old Course Lane along a line having a course of SW 33-23-15 E for 213 49 feet to an iron new being the True Point of Beginning for the Access Parcel,

Thence continuing along the right of way of Old Course Lane S 33-23-15 E a distance of 24 89 feet to an old iron pin,

Thence along a curve to the left having a radius of 350 00 feet, a length of 30 23 feet and a chord of S 35-51-44 E for 30 22 feet to an iron new,

Thence along a curve to the right having a radius of 73 63 feet, a length of 7 15 feet and a chord of S 19-45-52 W for 7 14 feet to an iron new,

Thence along a curve to the right having a radius of 125 00 feet, a length of 34 90 feet, and a chord of S 25-11-00 W for 34 79 feet to an iron new,

Thence along a line with a course of N26-42-55 W for 64 33 feet to an iron new,

Thence along a curve to the right having a radius of 123 63 feet, a length of 29 97 feet, and a chord of N 29-32-12 E for 29 89 feet to the True Point of Beginning

Said Parcel containing 0 04 acres based on the survey

TOGETHER WITH

EASEMENT AREAS

All that piece, parcel or tract of land, located in the Town of Mount Pleasant, Charleston County, South Carolina, and being designated as Access Easement on Survey by Thomas & Hutton Engineering Co., dated May 5, 1998 and recorded in Plat Book ED, Page 197, Charleston County RMC Office as follows

Commencing at the intersection of the southerly right of way of Old Course Lane and the easterly right of way of U S Highway 17 North, thence running along the southerly right of way of Old Course Lane along a line having a course of S 33-23-15 E for 213 49 feet to an iron new;

Thence along a curve to the left having a radius of 123 63 feet, a length of 29 97 feet, and a chord of S 29-32-12 W for 29 89 feet to the True Point of Beginning

Thence southerly along a line with a course S 26 degrees 42 minutes 55 seconds East a distance of 64 33 feet to an iron new,

Thence along a curve to the right with a radius of 125 00 feet, a length of 32 69, and a chord of S 40-40-27 W for 32 60 feet to an iron new,

Thence northerly along a line with a course N 26 degrees 42 minutes 40 second W a distance of 53 13 feet to an iron new,

Thence easterly along a curve to the left with a radius of 75 00 feet, a length of 26 58 feet, and a chord of N 27-21-41 E for 26 45 feet to an iron new,

Thence along a curve to the right with a radius of 123 63 feet, a length of 12 04 feet, and a chord of N 19-48-09 E for 12 03 feet to the Point of Beginning Said easement containing 0 04 acres

Being the same property conveyed to the Grantor herein by deed of Stackpole Limited Partnership IV by deed dated July 2, 1998 and recorded in deed book E306 at page 43 AND by deed of Keystone Residential Dev. Inc.dated April 5, 1999 and recorded in Book V323 page 193 AND by deed of Centex International Inc. dated Feb. 16, 1999 and recorded in Book N322 page 473 in the RMC Office for Charleston County.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title
APRIL 19, 2006

BK C 581 PG 760

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says

1 I have read the information on this Affidavit and I understand such information

2 The property is being transferred by KEYSTONE LEGENDS I, LP to LMP PROPERTIES, INC. on APRIL 19, 2006

3 The Deed is (check one)
(a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth
(b) ____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary
(c) ____ EXEMPT from the deed recording fee because (exemptions 1-12) ____ (If exempt, please skip Items 4-6, and go to Item 7 of this Affidavit).

4 Check one of the following if either Item 3(a) or 3(b) above has been checked
(a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the Amount of $ 33,050,000 00
(b) ____ The fee is computed on the fair market value of the realty which is $ ____
(c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is $ ____

5 Check YES X or NO ____ to the following A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer If "YES," the amount of the outstanding balance of this lien or encumbrance is $ 16,317,102 71

6 The DEED Recording Fee is computed as follows
(a) $33,050,000 00 the amount listed in Item 4 above
(b) $16,317,102 71 the amount listed in Item 5 above (if no amount, place zero)
(c) $16,732,897 29 Subtract Line 6(b) from Line 6(a) and place the result

4 As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as ATTORNEY

5 Check if Property other than Real Property is being transferred on this Deed
(A) ____ Mobile Home
(B) ____ Other

9 ____ DEED OF DISTRIBUTION-ATTORNEY'S AFFIDAVIT Estate of ____ Deceased CASE NUMBER ____ Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina, that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of ____ Deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent

10 I further understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both

SWORN to before me this 19 day of April, 2006

Michele H. H.
NOTARY PUBLIC FOR SC
MY COMMISSION EXPIRES 9/23/09

Grantor, Grantee, or Legal Representative

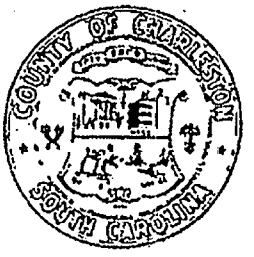
Lydia P. Davidson
Print name here

A-18

BKC 581PG761

RECORDER'S PAGE

NOTE This page MUST remain with the original document



FILED

April 27, 2006
3 37 46 PM

BKC 581PG755

Charlie Lybrand, Register
Charleston County, SC

Filed By

Krawcheck & Davidson
Attorneys at Law
9 State Street
Charleston SC 29401

DESCRIPTION	AMOUNT
Recording Fee	$ 12 00
State Fee	$ 43,505 80
County Fee	$ 18,406 30
Postage	
TOTAL	$ 61,924 10

PROVERIFIED ASSESSOR
REP
DATE 5/17/06

$ Amount (in thousands)	16733
DRAWER	
	A - bmm

DO NOT STAMP BELOW THIS LINE

101 Meeting Street, Room 300
PO Box 427
Charleston, SC 29402

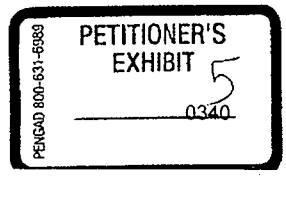
CHARLESTON COUNTY
SOUTH CAROLINA

Office of the County Assessor
843.958.4100

APPRAISAL CONSULTING REPORT

PREMISES:	121 Condominium Units Part of The Legends Horizontal Property Regime 1100 Legends Club Drive Mt. Pleasant Charleston County, South Carolina
PROPERTY ID:	121 Parcels that are part of the Legends HPR (See List in Addenda)
EFFECTIVE DATES: REPORT SIGNATURE DATE:	December 31, 2003 (Retrospective Date of Value) August 6, 2010
INTENDED USE OF APPRAISAL:	Determine the Highest and Best Use of the subject property as of 12/31/2003.

PREPARED BY:	Charleston County Tax Assessor's Office 101 Meeting St., Room 301 P. O. Box 427 Charleston, SC 29402



101 Meeting Street, Room 300
PO Box 427
Charleston, SC 29402

CHARLESTON COUNTY
SOUTH CAROLINA

Office of the County Assessor
843.958.4100

August 6, 2010

Charleston County
101 Meeting St., Room 300
P. O. Box 427
Charleston, South Carolina 29402

Re: 121 Condominium Units
Part of The Legends Horizontal Property Regime
1100 Legends Club Drive
Mt. Pleasant, Charleston County, South Carolina

Property ID: 121 Parcels that are part of the Legends HPR
(See List in Addenda)

Dear Mrs. Glennon:

In accordance with your request, we have visited the property and developed an appraisal consulting report of the premises as captioned, which is shown on the tax maps of Charleston County, South Carolina as 121 parcels which are part of this original HPR with 200 parcels (See addenda for list of the lots including in the subject). This consulting assignment and report has been completed under the guidelines of the Uniform Standards of Professional Appraisal Practice for Appraisal Consulting and Development.

The description of the subject property is set forth in a plat together with a description of the neighborhood, both of which are part of the accompanying report. The owner is appealing the value of only 121 units: The appellant owned 200 units as part of an apartment development as of the effective date of this report (12/31/2003). The Legends Horizontal Property Regime (HPR) was established in 2006. However, the subject for this valuation is considered 121 units subject to the subsequent filing of the HPR in 2006. The owner sold (57 units) or held (22) lots for marketing for sale – one of which sold in late 2009.

The client is Charleston County. The intended users of this report are the Charleston County Assessor's Office, Charleston County Legal Department, SC Administrative Law Court Judge Presiding, Appellant/Taxpayer, and Appellant's Representative and/or Counsel. The intended use of the consulting appraisal report is to determine the highest and best use of the units in question, and reference opinions of value based on that highest and best use of the subject property. No other value conclusion should be construed from the data contained in the report.

Mrs. Glennon (continued)

We have kept in our files all pertinent data, and the analysis of the data, which supports the conclusions discussed in the report. Enclosed in the report is also a list of limiting conditions concerning the use of the report. Unless otherwise noted in the report, it is assumed the subject property complies with Americans with Disabilities Act and pertinent environmental laws, which may apply. The assignment conditions are typical with no special items requested in accordance with USPAP Standards 4 and 5. We have included a signed certificate in accordance with USPAP rule 5-3. We have the appraisal experience and technical knowledge to complete this assignment competently.

The subject is a retrospective consulting assignment as per USPAP - Statement 3. The assignment is complicated by the fact that the appraiser already knows what occurred in the market after the effective date. Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where he or she should make this cut-off. In the absence of evidence in the market that data subsequent to the effective date where consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date for data considered by the appraiser.

This consulting appraisal assignment was completed by Gary N. James (Charleston County Assessor's Office). The section of the report included herein entitled "Financial Feasibility Analysis As An Apartment Complex" references and extrapolates data from the report prepared by Stephen J. Everman entitled "An Appraisal/Valuation Analysis of Legends at Mt. Pleasant Apartments" dated April 26, 2004 which was prepared and submitted to the Board Of Assessment Appeals for a conference on May 26, 2007. This report is incorporated by reference. In addition, incorporated by reference are individual URAR appraisals of typical one, two, & three bedroom units, as of 12/31/2003 which were completed by Angela Sawadske (Charleston County Assessor's Office). I have read both Mr. Everman's and Ms. Sawadske's reports, discussed the findings, analysis, and conclusions with them, and have a reasonable basis for believing that their work is credible. Mr. Everman and Ms. Sawadske did not assist me in the completion of this assignment.

In arriving at a determination of highest and best use, I have considered all aspects of the site and associated improvements, character of the neighborhood and the condition of any on-site buildings, as well as all other factors that influence value and use. In my opinion, the **Highest and Best Use of the subject as of 12/31/2003 is as individual condominium units. Those units had the following retrospective Market Values as of 12/31/2003 (as per Ms. Sawadske's URAR Appraisal Reports):**

Unit Size	Model Name	Owned as of 12/31/2003	Market Value As Of 12/31/2003
One Bedroom	AZALEA	13	$105,000
	AZALEA ELONGATED	10	$107,000
	DOGWOOD	33	$110,000
	MAGNOLIA	5	$134,000
Two Bedroom	JASMINE	2	$148,000
	JASMINE ELONGATED	1	$156,000
	JASMINE GARAGE	6	$170,000
	OLEANDER	38	$157,000
	OLEANDER GARAGE	1	$175,000
Three Bedroom	CAMELLIA	9	$170,000
	CAMELLIA GARAGE	3	$192,000
Total		**121**	

ESTIMATED MARKETING TIME TO SELLOUT 121 UNITS: 3 years

Gary N. James
Certified General Appraiser
Cert. No. CG 6569

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121 Condominium Units, The Legends, 1100 Legends Club Drive, Mt. Pleasant, *SC*

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INTRODUCTION: SUMMARY OF SALIENT FACTS AND CONCLUSIONS

PROPERTY IDENTITY OF CONSULTING APPRAISAL ASSIGNMENT

121 Condominium Units
Part of The Legends Horizontal Property Regime
1100 Legends Club Drive
Mt. Pleasant
Charleston County, South Carolina

Property ID: 121 Parcels that are part of the Legends HPR
(See List in Addenda)

CLIENT/INTENDED USERS:

Primary Intended User/Client:	Charleston County OT Wallace Office Building, 101 Meeting Street, Suite 300, City of Charleston, Charleston County, SC 29401
Additional Intended Users:	Charleston County Legal Department Appellant (Taxpayer/property owner/owner's representative/attorneys) Administrative Law Court Judge Presiding

Complete copies of the report will be given to all intended users. The consultant and appraisers intend to offer an oral presentation of this report to the Administrative Law Court for the subject property, if necessary. This oral information is supplementary to the report and without the testimony, the position of the Assessor may not be clear.

INTENDED USE:

The intended use of the appraisal consulting assignment is to establish the highest and best use of the property(s) as of 12/31/2003 to assist in establishing the market value for ad valorem tax purposes.

The intended use of this appraisal is to aid in discussions of the market value of the subject property that is being appealed to the Administrative Law Court for Tax Year 2008. If need be, an additional intended use is to assist the Administrative Law Court with its' deliberations regarding an appeal of the market value of the subject property for ad valorem tax purposes.

DATE OF VALUE/VISITATION/REPORT:

Effective Dates of Value:	December 31, 2003
Visitation Date:	April 2010
Date of Report:	August 6, 2010

Generally, the date of analysis and opinion of value for a given tax year is the lien date for taxes. The lien date for taxes is considered the effective date of the most recent reassessment date, (e.g. 12/31/2003). The most recent countywide reassessment year was 2004 with implementation in the fifth year (2005) per SC Code 12-43-217. Therefore, the estimate of value is as of December 31, 2003.

Whereas this opinion of value is as of a specified historic date, it is considered a "Retrospective" value opinion as of the specified date, in conformance with the Uniform Standards of Professional Appraisal Practice as it relates to retrospective value estimates and as the South Carolina Statute is interpreted.

NOTE: As per USPAP, Statement 3, the assignment is complicated by the fact that the appraiser already knows what occurred in the market after the effective date. Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date. The appraiser should determine a logical cut-off because at some point distant from the effective date, the subsequent data will not reflect the relevant market. This is a difficult determination to make. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where he or she should make this cut-off. In the absence of evidence in the market that data subsequent to the effective date were consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date for data considered by the appraiser.

The property was visited during April 2010, and the consultants has assumed that the condition of the property as of the effective date of value is the same as its condition on the date visited. The property owner has been asked to provide supporting documentation relative to changes in the property since the effective date of value of this report. (None has been provided). The completion date of the report is August 6, 2010.

MARKET VALUE DEFINITION:

Market Value is defined by the Office of the Comptroller of the Currency under 12 CFR, part 34, Subpart C – Appraisals, as follows:

> "The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
>
> 1) Buyer and seller are typically motivated;
> 2) Both parties are well informed or well advised, and acting in what they consider their own best interest;
> 3) A reasonable time is allowed for exposure on the open market;
> 4) Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
> 5) The price represents the normal consideration for the property sold unaffected by special creative financing or sales concessions granted by anyone associated with the sale."

Market Value is defined in the Appraisal of Real Estate in basic terms as follows:

> "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."
> (Ref. The Appraisal of Real Estate, 13th Edition, 2008 by the Appraisal Institute, page 23)

South Carolina Code of Laws section 12-37-930 states:

> "...all property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used."

As can be seen, the definitions are very similar. Since SC Codes of Laws section 12 governs ad valorem taxation, any differences in the definitions would be resolved based upon state codes.

> **SECTION 12-43-215.** Owner-occupied residential real property; highest and best use; appeals of assessment value.
>
> When owner-occupied residential property assessed pursuant to Section 12-43-220(c) is valued for purposes of ad valorem taxation, the value of the land must be determined on the basis that its highest and best use is for residential purposes. When a property owner or an agent for a property owner appeals the value of a property assessment, the assessor shall consider the appeal and make any adjustments, if warranted, based on the market values of real property *as they existed in the year that the equalization and reassessment program was conducted and on which the assessment is based (emphasis added).*

The last countywide reassessment in Charleston County was based on an effective date of value of December 31, 2003, therefore this property is being valued under the provisions of this statute.

IDENTIFICATION OF REAL PROPERTY INVOLVED:

Location: The subject is located just off US Highway 17 north at the entrance to the Charleston National Golf and Resort Community in the easternmost neighborhood of the Town of Mt. Pleasant, SC

Property ID: There are 121 condo units that are part of the 200 units within the Legends HPR under analysis and discussion within this report – see list in appendix.

Parcel Size: 23.22 Acres Total Area (22.92 Acres highland Area) for entire complex.

Parcel Shape: Nearly rectangular parcel - see tax maps

Regime Size:

Size	Unit Name	SF/Unit	Total Units	Owned As Of 12/31/07
1 BR	AZALEA	658	20	13
	AZALEA ELONGATED	743	12	10
	DOGWOOD	753	40	33
	MAGNOLIA	836	8	5
2 BR	JASMINE	1030	8	2
	JASMINE ELONGATED	1154	8	1
	JASMINE GARAGE	1050	8	8
	OLEANDER	1176	64	38
	OLEANDER GARAGE	1135	8	1
3 BR	CAMELLIA	1357	16	9
	CAMELLIA GARAGE	1377	8	3
Total			200	121

NOTE: The subject property under appeal contains only the above noted 121 units within the Regime ownership as of 12/31/2007. There are other units owned by this owner which are not considered as part of this assignment. There are also other units in the regime that have sold over time. As noted in the chart above, there are a total of 200 residential units in the complex.

Site: This parcel was previously comprised of a single taxable parcel (599-00-00-020), which has been subdivided by the creation of the horizontal property regime. The complex fronts on US Highway 17N (1,624 FF), and extends to the east on average 192 ft.

Legal Attributes: Town of Mount Pleasant Zone: PD: Planned Development District.

The subject property use, occupancy and style of construction is compatible and homogeneous with the surrounding neighborhood; the current use/occupancy as apartments (prior use) and condominiums (current use) does conform with the current PD: Planned Development District and does meet all of the bulk setback requirements.

Economic Attributes: There are no noted easements, restrictions, encumbrances, leases, covenants or other items of similar nature on the property as noted at time of visitation and after review of public records except typical utility easements onto and servicing the property, and those encumbrances, restrictions and covenants that govern the regime.

SALES HISTORY:

Owner of Record: LMP Properties, Inc.

The last recorded transaction of the property as a whole was on April 19, 2006. The grantor and grantee respectively were Keystone Legends I, LP (grantor) to LMP Properties, Inc. (grantee) for $5. The deed is recorded in Book C581 at Page 755 in the RMC office of Charleston County. The affidavit attached to the deed provided that additional consideration paid to the grantor was in the amount of $33,050,000, including $16,317,102.71 for assumption of the existing mortgage. Prior to this sale, Keystone Legends I, LP purchased the property August 2, 1998 for $1,235,000 as vacant land.

Subsequent to the purchase, the new owners submitted the property and all improvements to the South Carolina Horizontal Property Regime Act as The Legends Horizontal Property Regime pursuant to the Master Deed dated April 26, 2006, and recorded May 9, 2006 in Book D581, Page 121 in the RMC office of Charleston County. Within these documents, the condominium units are part of The Legends Horizontal Property Regime that contains 200 separate units in 14 buildings with a separate community building (clubhouse), tennis courts, and pool.

Shortly after the creation of The Legends Horizontal Property Regime, the owners began placing groupings of individual units on the market for sale as individual condominium units. Generally around 20 units were offered for sale at a time, the remainder continued to be leased. During 2006, 44 units were sold, and 13 additional units were sold in 2007. No other units were sold through December 31, 2007. One additional unit has sold since the effective date of the assignment. The remaining units have not been sold as of the date of our visit in May 2010: 22 Units are being held aside and marketed for sale. The remaining 121 units are the subject property for purposes of this assignment.

PROPERTY RIGHTS & INTEREST CONSIDERED:

A **fee simple estate** is considered the entire bundle of rights of the subject parcel. No personal property, trade fixtures, or intangible items are included in a fee simple value. Fee Simple is an:

> "Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. "
>
> (Ref. The Appraisal of Real Estate Appraisal, 13th Edition, 2008, by the Appraisal Institute, page 114)

Valuation assignments may alternately involve a partial interest in real property, limited rights such as surface or mineral rights, the value of the fee estate subject to a long term lease, or a leasehold interest - depending on the scope of work and assignment agreed upon. A **leased fee estate** is an ownership interest held by a landlord with the right of use and occupancy conveyed by lease to others; usually consists of the right to receive rent and the right to repossession at the termination of the lease. (Note - when the leases are at or nearly at market levels, a leased fee estate is considered similar to the Fee Simple estate value subject to the current leases.)

Along with property rights, the property could be appraised "As Proposed" for new construction, "As Is" for existing property and/or uses, or "As A Going Concern" which considers the existing use and any associated value due to factors other than real property.

This assignment has been completed with the understanding that the present ownership of the subject property includes all of the rights that may be lawfully owned and is, therefore, based on **Title in Fee Simple.** This is an **"As Is"** appraisal of the property in the physical condition as of the respective effective date (based on physical conditions found as of the date of the site visit) unless otherwise indicated. The subject is 121 condominium units within a Horizontal Property Regime, which are retained by the declarent.

EXTRAORDINARY ASSUMPTIONS:

USPAP defines an Extraordinary Assumption as: An assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. The following extraordinary assumptions have been made in this consulting assignment:

- There are no Extraordinary Assumptions noted in this consulting appraisal report. However, within the Highest and Best Use "Financial Feasibility" valuation as an apartment complex – extraordinary assumptions were made relative to the marketability of the remaining units as an Apartment Complex.

HYPOTHETICAL ASSUMPTIONS:

USPAP defines a Hypothetical Assumption as: An assumption which is contrary to what exists but is supposed for the purpose of analysis.

- South Carolina statutes require that ad valorem taxation be based on the most recent county wide reassessment effective date, which was 12/31/2003. When the subject was subdivided in 2007, (creation of the Horizontal Property Regime), ad valorem taxation requires that the condominium unit values be valued as of 12/31/2003 for taxation purposes moving forward from the date of creation of the Horizontal Property Regime. This is considered a hypothetical assumption, since these subdivided units did not exist prior to 2007.

- Assumptions were made with respect to sellout rates within the neighborhood, pricing of listed units, condition of units placed for sale, and potential reaction by management to market forces by readjusting pricing and marketing assumptions to maintain sales of the units. These are noted in the particular section where these specific assumptions were made. All assumptions were based on market derived data. A change in any of these assumptions might influence the results of the analysis.

- Some of the units that are the subject of this appeal are/were rented on short term (1 year or less) leases. We have assumed market rents for this analysis, and that all units could be made available for sale within 1 year. Therefore, the property could be free of any tenants within 12 months, and is analyzed on a fee simple basis.

HIGHEST AND BEST USE:

The Appraisal Institute defines highest and best use as follows:

> "The reasonably probable and legal use of vacant land or an improved property, that is legally permissible, physically possible, appropriately supported, financially feasible, and that results in the highest value."
>
> (ref. The Appraisal of Real Estate, 13th Edition 2008 by The Appraisal Institute page 278)

The definition above applies specifically to the use of the land. It is recognized that in cases where a site has existing improvements on it, the highest and best use may be determined to be different from the existing use. The four essential criteria for evaluating the highest and best use of the land are: legal permissibility, physical possibility, financial feasibility and maximal productivity. These concepts are typically considered in the sequence shown below:

1. Legally permissible uses are considered. These result from such limitations as those imposed by private deed restrictions, zoning, building codes and environmental regulations.

2. Physically possible uses are considered in terms of the site size, shape, land area and topography. Also considered was the availability of public utilities.

3. Financially feasible uses are those uses that meet the conditions imposed by the two previous criteria and which may be expected to produce a positive financial return.

4. Maximally Productive use is that which among the highest financially feasible uses provides the highest rate of return, or value (given a constant rate of return). The use that provides the highest rate of return or value to the land is the highest and best use as if vacant, if the buildings still contribute to the site, the use that provides the overall greatest return or value is the highest and best use as improved.

AS IF VACANT:

The subject properties are a part of a 23.22 acre developed parcel within a residential neighborhood. As such, it is currently comprised of residential attached dwellings – which is a conforming existing use. Though a full analysis of highest and best use is provided later in this report, I have summarized my findings below.

In analyzing the above parameters, I find the following with respect to the subject parcel as if vacant:

1. Multi-Family/Townhouse/Condominium development is **physically possible**. The land is not limited by physical constraints that would preclude this type of development.

2. Multi-Family/Townhouse/Condominium development is **legally possible**. The land is currently zoned PD: Planned Development Zone. This zone allows multi-family and/or condominium development along this area of US Highway 17.

3. Multi-Family/Townhouse/Condominium development is **financially feasible**. The location of the property is in a mixed-residential neighborhood and adjacent to surrounding residential and commercial development along US Highway 17.

4. It would also be **maximally productive** as developed for multi-family/condominium use within the zone.

Therefore, in consideration of the above noted parameters, **The Highest and Best Use** of the subject parcel AS IF VACANT would be the **high density residential use** as discussed later and as allowed within the PD: Planned Development Zone.

AS IMPROVED:

The subject is 121 residential condominium units within a horizontal property regime (HPR) containing 200 residential condominium units located in a residential neighborhood. As such, it is currently unencumbered by any non-conforming existing uses. Though a full analysis of highest and best use is the primary assignment that this report presents in detail, I have summarized the findings below.

In analyzing the above parameters, I find the following with respect to the subject improved parcel:

1. Multi-Family and Condominium development are **physically possible**. The land and improvements are not limited by physical constraints that would preclude this type of development.

2. Multi-Family and Condominium development are **legally possible**. The land is currently zoned PD: Planned Development Zone. This zone allows multi-family and/or condominium development within this area, and along US Highway 17.

3. Multi-Family and Condominium development are **financially feasible.** The location of the property is in a residential neighborhood and adjacent to surrounding residential and commercial development. Both uses were tested for financial feasibility. Both were found to be feasible.

4. It would also be **maximally productive** as developed for **condominium use** within the zone as of the effective date of the consulting assignment. **As will be discussed, I have found that condominium use is the most financially feasible, and therefore the maximally productive use alternative of those allowed and physically possible.**

HIGHEST AND BEST USE – SUMMARY and CONCLUSIONS

Since subject has improvements on the property, and appears to be developed to its maximally productive condition, it is my opinion that the highest and best use is as individual condominium units within a horizontal property regime. Therefore, in consideration of the above noted parameters, **The Highest and Best Use** of the subject parcel AS IMPROVED would be the **condominium use** as discussed later and as allowed within the PD: Planned Development Zone.

SCOPE OF WORK:

The Scope of Work Rule acknowledges that appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work. Further, the Rule states that communication with the client is required to establish most of the information necessary for problem identification. Finally, the requirement to develop a credible assignment results in the context of the intended use links the appropriate scope of work to the use or uses of the assignment as identified by the client. As a result, an appraiser seeks to provide a valuation service, not a product in the form of a report. This "Assignment" is a valuation service provided as a consequence of an agreement between an appraiser and a client. The goal of the appraiser is to arrive at credible assignment results; to provide a service that is reliable given the intended use; and to always be accurate.

Therefore, the Scope of Work defines the parameters and expectations based on the Intended User, Intended Use, and the Purpose (Type of Value). The exclusion of the cost approach, sales comparison approach, or income approach will be noted in the Valuation Sections.

According to the Uniform Standards of Professional Appraisal Practice, it is the appraiser's responsibility to determine the appropriate scope of work. USPAP defines the scope of work as:

The amount and type of information researched and the analysis applied in an assignment. Scope of Work includes, but is not limited to, the following:

1. the degree to which the property is inspected or identified;
2. the extent of research into physical or economic factors that could affect the property;
3. the extent of data research; and
4. the type and extent of analysis applied to arrive at opinions or conclusions.

Assignment:

The Charleston County Assessor's Office is required to establish the highest and best use of the subject property as of 12/31/2003, subject to the South Carolina statutes. For ad valorem taxation, when one of these statutes conflicts with USPAP, a jurisdictional exception is allowed.

Jurisdictional Exception Rule (USPAP 2010 – 2011)

If any applicable law or regulation precludes compliance with any part of USPAP, only that part of USPAP becomes void for that assignment.

Comment: When compliance with USPAP is required by federal law or regulation, no part of USPAP can be voided by a law or regulation of a state or local jurisdiction.

In an assignment involving a jurisdictional exception, an appraiser must:

1. identify the law or regulation that precludes compliance with USPAP;
2. comply with that law or regulation;
3. clearly and conspicuously disclose in the report the part of USPAP that is voided by that law or regulation; and
4. cite in the report the law or regulation requiring this exception to USPAP compliance.

Comment: The JURISDICTIONAL EXCEPTION RULE provides a saving or severability clause intended to preserve the balance of USPAP if compliance with one or more of its parts is precluded by the law or regulation of a jurisdiction. When an appraiser properly follows this Rule in disregarding a part of USPAP, there is no violation of USPAP.

Law includes constitutions, legislative and court-made law, and administrative rules and ordinances. Regulations include rules or orders having legal force, issued by an administrative agency. Instructions from a client or attorney do not establish a jurisdictional exception.

Advisory Opinions:

The JURISDICTIONAL EXCEPTION RULE exempts appraisers from the part or parts of USPAP that are precluded by the law or regulation of a particular jurisdiction. If compliance with a part of USPAP is precluded by any applicable federal, state, or local law or regulation, only that part shall be of no force and effect in that assignment. Appraisers using the JURISDICTIONAL EXCEPTION RULE must properly disclose the legal authority justifying the exemption of part or parts of USPAP that are precluded by law.

Use of the JURISDICTIONAL EXCEPTION RULE is triggered by a contradiction between the requirements of USPAP and the law or regulations of a jurisdiction, not by client or appraiser discretion.

USPAP does not establish who or which assignments must comply. Therefore, the JURISDICTIONAL EXCEPTION RULE cannot be applied to the decision to comply with USPAP.

An individual's identification as an appraiser is the basis for determining who should comply with USPAP. This is because an individual's public identification as an appraiser establishes an expectation that valuation services will be performed in compliance with USPAP. An individual must comply with USPAP when required by law, regulation, or agreement. Even if the governing authority's policy does not require USPAP compliance, other applicable law or regulation might require compliance.

More particularly, is the highest and best use as a rental apartment complex or as individual condominium units to be marketed for sale? In doing so, an opinion of value will be established. Additionally, the consulting appraisal assignment has included by reference, opinions and market value determinations arrived at by others in separate reports.

Additionally, the consulting appraisal assignment was completed by Gary N. James (Charleston County Assessor's Office). The section of the report included herein entitled "Financial Feasibility Analysis As An Apartment Complex" references and extrapolates data from the report prepared by Stephen J. Everman entitled "An Appraisal/Valuation Analysis of Legends at Mt. Pleasant Apartments" dated April 26, 2004 which was prepared and submitted to the Board Of Assessment Appeals for a hearing on May 26, 2007. This report is incorporated by reference and is based on an effective date of value of 12/31/2003 (the date for the reassessment). In addition, incorporated by reference are individual URAR appraisals of typical one, two, & three bedroom units, as of 12/31/2003 which were completed by Angela Sawadske (Charleston County Assessor's Office). I have read both Mr. Everman's and Ms. Sawadske's reports, discussed the findings, analysis, and conclusions with them, and have a reasonable basis for believing that their work is credible. Mr. Everman and Ms. Sawadske did not assist me in the completion of this assignment.

The users are the employees of the Assessor's office, Charleston County Legal Department, the Appellant (property owner) and/or the Appellant's Representative, and the Administrative Law Court Judge Presiding. The employees of the Assessor's Office, our legal counsel, the Appellant, and Appellant's counsel are familiar with Charleston County, the court may not be familiar; and all are familiar with the appeal conference process. The Appellant and/or appellants representative has conferred with the Assessor's Office on the methods utilized to value the subject property during the initial reassessment. The owner and/or representative or legal counsel are familiar with the property type in question.

Consultation/Assignment Type:

This is a Consulting Assignment and Report which are defined and governed by Standard Rules 4 & 5 as defined by the Uniform Standards of Professional Appraisal Practice. Any opinion of value arrived at during the preparation of the assignment must also by governed by Standards Rule 2-2(b).

This format provides a summary description of the consulting process, subject data and determination of an opinion of value. As such, it presents appropriate and pertinent discussions of the data, reasoning, and analyses that were used in the appraisal consulting process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file and included in the report as necessary for understanding of the conclusions reached. The depth of discussion contained in this report is specific to the needs of the client and for the intended use as noted above. The appraiser is not responsible for unauthorized use of this report.

The scope of this consulting appraisal assignment includes all generally recognized and accepted phases of valuation analysis. Those phases include: data collection of the subject and comparable properties, area and neighborhood survey, absorption analysis, highest and best use analysis, land valuation, building and improvement valuation, (if the property is improved) and reconciliation of the valuation methods used. The consulting assignment process included evaluation of supporting data, correspondence and reports discovered in the investigation portion of the appraisal consulting process. This information may be presented within the body of the report, or found in the addendum.

The appraisal concepts and methods employed were conducted at a level consistent with what is appropriate and credible. The scope was not predetermined but was determined during the appraisal consulting process by the complexity of all factors involved. The scope of the appraisal consulting assignment and the scope of the report were determined to ensure the intended users were provided with an appraisal consulting report that correctly and adequately addressed each known pertinent issue related to the subject property at the time of effective date.

The applicable approach(s) were developed and are explained in sufficient detail for the reader to understand, and considers the transactions and the validity of the approach(s) used. The approach(s) were reconciled and the various strengths, weaknesses, and appropriateness were evaluated based on the evidence presented.

- The COST APPROACH is an estimation of market value developed by computing the current cost of replacing a property and deducting any depreciation resulting from one or more of the following factors: PHYSICAL DETERIORATION, FUNCTIONAL OBSOLESCENCE and ECONOMIC OBSOLESCENCE. The value of the land, as if vacant and available, is then added to the depreciated value of the improvements to produce a total value estimate.
- The SALES COMPARISON APPROACH is used to estimate the value of the land as if vacant and/or the whole property as improved. The appraiser gathers data on sales of comparable properties and analyzes the nature and condition of each sale, making logical adjustments for dissimilar characteristics. Typically, a common denominator may be price per square foot, price per unit or a gross rent multiplier.
- The INCOME APPROACH is predicated on the assumption that there is a definite relationship between the amount of income a property will earn and its value. This approach is based on the principle that value is created by the expectation of benefits derived in the future. The anticipated annual net income of the subject property is processed to produce an indication of value. Net income is the income generated before payment of any debt service. The process of converting net income into value is called CAPITALIZATION, which involves dividing the net income by a capitalization rate. Factors such as *risk, time, interest on the capital investment and recapture of the depreciating asset* are considered in the rate. The appropriateness of this rate is critical, and there are a number of techniques by which it may be developed. Another form of the income approach is the Discounted Cash Flow Analysis. The Discounted Cash Flow Analysis is a capital budgeting technique involving the analysis of revenue which an informed investor anticipates the asset to generate over a specific period of time as well as the expenses incurred to generate that revenue. The resulting net income to the investment is then discounted into a capital sum at an appropriate discount rate to indicate the present value of the real estate. A discounted cash flow is not applicable where the rental rates are not consistent from year to year or are not typically utilized in the marketplace – such as land leases; and where there are generally no improvements and/or where renovations are proposed in the near future.

Site Visit:

A site visit to the property was made by the consultant appraiser in April 2010. At that time, I visited the tract, noting the physical characteristics of the subject and surrounding properties. No interior visit of any units was completed at that time.

Survey of Factors/Influences on the Subject Property:

I conducted a survey of the market for similar condominium sales (comparable properties) as of the effective date of the report. In addition, I researched contemporary (to the effective date of the assignment) active unsold listings of competing properties in order to determine market trends

Highest and Best Use Analysis:

A complete analysis of highest and best use was made.

Market Area and Analysis of Market Conditions:

A complete analysis of market conditions was made.

Consulting and Valuation Methodology:

The consulting and valuation methodology is the orderly program in which the data are ***acquired, classified, analyzed, valued, and presented:***

1. The first step is **defining the appraisal consulting problem**, i.e., identification of the Real Estate, the Effective Date of the Value Estimate, The Property Rights being considered, and the type of value and/or results sought.

2. Once this has been accomplished, the appraiser **collects and analyzes the factors** defined in the problem that affect the market, marketability, and/or market value, of the subject property. These include area and neighborhood analysis, site and improvement analysis, highest and best use analysis, and potentially the application of the three (3) approaches to value: The Cost Approach, The Sales Comparison Approach and The Income Approach.

3. Perform a Highest and Best Use Analysis. Within the Highest and Best Use analysis, the review of the existing improvements, as well as the initial tests for Highest and Best Use (Physically Possible and Legally Permissible) narrowed the potential uses for the subject to multi-family residential (apartments) or individual condominium units. Therefore, the test of Financially Feasible considered only these two potential uses.

   Our financially feasible analysis considered a review of the market conditions, the subject improvements, and a hypothetical valuation based on the two uses passing the 1st two tests: As if a multi-family/apartment property, and the sellout of the units within the complex over a period of time, i.e. a discounted cash flow of the sale of the units within the complex. Note that the valuation is subject to South Carolina statutes regarding appraising for ad valorem taxation. Jurisdictional exceptions, as allowed by USPAP apply.

The two financially feasible uses analyzed within the Highest and Best Use section utilized the following approaches:

The Cost Approach was not considered applicable for this consulting assignment of scattered condominium units within several buildings on one parcel with shared ownership of common walls and amenities, and was not utilized in this appraisal consulting assignment.

The Sales Comparison Approach gives good indication of value when sales of similar properties are available, and was considered in this appraisal consulting assignment. However, a separate appraisal for the three model units has been completed by another appraiser and is referenced in this report. These values were utilized in determination of the model pricing for the sellout model provided in the Income Approach noted below.

An Income Approach was considered applicable, and was utilized in this appraisal consulting assignment. A discounted cash flow (DCF) analysis of the sellout of the units was made, including an analysis of the rental income of the unsold remaining units prior to marketing of these units for sale. This was done solely to determine the highest and best use and should not be construed as implying that the DCF value should be allocated among the individual units.

As noted – the Sales and Income Approach (Financial Feasibility Analysis As If Apartments – including the report by Steve Everman's incorporated by reference as noted earlier) and the Discounted Cash Flow approach to value including sellout and rental income of the units (Hypothetical Financial Feasibility Analysis As If A Condominium Complex) were utilized. These approaches were considered to be meaningful in the assessment of the determination of the Highest and Best Use when considering the reliability and assumptions necessary in these approaches.

The local area provided several sales, rentals, and listings of units within competing and similar developments/regimes which were compared to the subject. We concentrated our search parameters and market analysis to the Mount Pleasant market of similarly aged and condition townhouse style apartment and condominium developments. It is this market that is considered most similar to the subject. Confirmed sales have more weight in the final analysis while active listings provide an insight into the anticipation of market value by the current owners.

This corridor in the recent period preceding the effective date of the consulting assignment was considered a "hot market" with speculative investors purchasing and converting townhouse style and flat-style apartment units to individual condominium units for sale. Hence, several properties were considered to communicate the broad picture. The data was analyzed to gain a picture of absorption of sales of these units as of the effective date, rental rates, operating income and expense data, cap rates, and for predicting a sellout period via a DCF.

4. Once the Highest and Best Use is concluded, the appropriate valuation techniques were utilized to **determine Market Value** of the individual units:

> ***To value entire condominium projects, whether they are newly constructed buildings or conversions, appraisers typically use the sales comparison approach to establish individual unit prices and apply discounted cash flow analysis to value the whole project. Using the latter technique, the amount and timing of all capital outlays, expected monetary receipts, and returns are estimated, and these amounts are discounted at a rate consistent with competitive investment yields. The estimate of future sellout prices and the timing of sales are key elements in the valuation.***
>
> ***Although similar data may be used in both applications, the valuation of individual condominium units is distinct from the valuation of an entire condominium project. The aggregate of individual unit values does not reflect the market value of the overall project, as the aggregate sum does not reflect carrying or holding costs, marketing expense, or the timing of cash flows. It is improper to represent the sum of the individual unit values as the market value of the entire project. Likewise, individual units are not valued by appraising the entirety and then allocating the total value to individual units. Each assignment has separate and distinct considerations.***
>
> (The Appraisal of Real Estate 13th edition - P. 639

5. The next step in the appraisal consulting assignment process is the **Reconciliation or Correlation** of the results and/or value indications. In the reconciliation or correlation, the appraiser considers the relative applicability of each of the approaches used, examines the range between the resulting value indications, and places major emphasis on the approach that appears to produce the most reliable solution to the specific appraisal consulting problem. The purpose of the appraisal consulting assignment, the type of property and the adequacy and reliability of the data are analyzed. These considerations influence the weight given to each of the approaches to value. In analyzing the three (3) approaches to value, it can be readily observed that most of the information pertaining to the Fair Market Value of the subject property must be derived from the marketplace because the appraiser anticipates the actions of buyers and sellers in the market. The actions of buyers and sellers in the market result in market value which is reflected in the Highest and Best Use of the Property.

6. Finally, the process, analysis, and findings are **presented in an appraisal report** as per USPAP.

THE SURROUNDING NEIGHBORHOOD: INFLUENCES and TRENDS

GENERAL AREA ANALYSIS

In considering and discussing the real estate market in Charleston, Mount Pleasant and the condominium and apartment markets as of the date of value (December 31, 2003), I have already stated that it is best under USPAP to use the effective date of value as the cut-off date for data *considered* by the appraiser. **I have however included economic and market data that is past the December 31, 2003 date of value. I have done so because there has been much publicity in the last two and a half years about the economy and the real estate market. I have used the data I included to assist in demonstrating when market participants would have had what information, when they would have realized that changes were occurring, and come to certain conclusions. I have used the data to confirm trends believed to be in place at the end of 2003 and to indicate when realizations about the market changed and to place those market changes into perspective locally. However, in all instances, there was no way to know, predict, or otherwise have any knowledge of the actual future trends might have transpired.**

GENERAL CHARACTERISTICS

Charleston County is located in the coastal region of South Carolina, in the Southeast corner of the State, approximately 291 miles east of Atlanta GA. The area is known as the "low country" in contrast to the hilly Upstate, the topography is flat, as is typical of the southeastern coastline. There are 95 miles of Atlantic coastline within the county.

Charleston County is the urbanized heart of the Tri-County Area, including Berkeley County and Dorchester County. Charleston County is one of the largest counties geographically in the state with 1,357 square miles. It is a very wide county, and physically occupies about a third of South Carolinas coast, although there are six coastal counties in the state. It takes more than two hours to traverse the county along the coast. Most of the rural areas in the county are on the far east and far west side, with the urban core running north south into the peninsula.

Charleston County has 163 square miles of urban area and 1,194 square miles of rural area (12% urban). By comparison, Berkeley County has 58 square miles of urban area and 1,040 miles of rural area (5% urban). Dorchester County has 33 square miles of urban area and 546 square miles of rural area (6% urban). Dorchester County and the larger and more rural Berkeley County are seeing greater growth as a percent than Charleston County, as affordable land is in greater supply in those counties. Additionally, those counties have undeveloped land closer to the urban core than does Charleston, where most of the undeveloped land is far to the east or west, well away from the Interstate or major transportation corridors.

The climate is mild, with average daily temperature ranging from 54 and 75 degrees. As a result, climate is often cited as a reason for a strong tourism base.

The East Cooper area is home to many of the major regional shopping centers, including most major national and regional retailers and restaurant chains establishing a presence in the area. The area has a new 'mall', (Town Center) which is not an enclosed mall but is far more than a 'power center'. East Cooper Regional Medical Center and Roper Hospital provide major medical facilities. Both have significant expansions planned due to growth in the area.

Major transportation corridors are Interstate 526, which terminates in Mount Pleasant. SC Highway 17 and Highway 41, provide access into Berkeley County. Beach access is available via connectors to the suburban and resort communities located on the Isle of Palms and Sullivan's Island.

James Island: James Island is located to the southwest of the Charleston Peninsular, with its distinct social and geographic character as a true island. It is the closest area to the peninsula. Over the past few years, the City of Charleston has been conducting an aggressive annexation campaign with mixed success. Two incorporations of James Island as a town have been legally challenged by the City of Charleston. At the same time, some James Islanders have annexed into the adjacent town of Folly Beach, preferring to be part of that municipality and opposing the City of Charleston philosophically. The incorporation battle continues to play out in the political and physical arenas.

James Island is geographically a small area, and has limited economic impact similar to the areas to the east and west and north have on Charleston region. As an island, growth is limited by its geographical boundaries. The area is a traditional bedroom community with shopping, restaurants and housing of all types. Major medical facilities are reached via immediate and easy access to the MUSC campus across the James Island Connector (fixed span bridge over the inter-coastal waterway) in Charleston. The shopping centers in this area tend to be grocery store anchored neighborhood centers. There are no regional centers on the island.

At the far end (Oceanside) of James Island is the barrier island known as the City of Folly Beach.

West Ashley Areas: The area to the West of the peninsula is known as West Ashley. It is suburban and its most dominant municipal influence is the City of Charleston, which has annexed areas sprawling all over the suburban enclaves. High prices for land to the east have driven growth in the west, particularly in the last five years. This area is more affordable than the East Cooper area, yet still has good schools, and offers a variety of shopping opportunities, including a major mall (Citadel Mall). Health care in this area is centered on the new St. Francis Xavier Hospital and medical complex off Interstate 526.

The West Ashley area has considerable rural areas on the western fringes, and includes the small rural towns of Hollywood, Megget and Ravenel. The major transportation corridors in this area are SC Highway 17 (aka Savannah Highway) and Interstate 526, as well as Route 7 (aka Sam Rittenberg) which extends toward North Charleston.

North Area: the North Area is dominated by the City of North Charleston. Incorporated just over thirty years ago, the City of North Charleston has the third largest municipal population in the state. North Charleston was home to the Naval Shipyard and is still home to the Charleston Air Force Base. It is historically a working class area and continues to be dominated by the working class. In many respects, it is the most affordable area to live in. The housing stock ranges from the old to new and includes all types and quality of housing. North Charleston has many older, stable neighborhoods with well-built brick homes dating to the 1930's. These areas are becoming popular with young professionals as they are not only affordable, but offer an alternative to tract neighborhoods in other locations. Law enforcement and code enforcement have been aggressive in cleaning up areas that deteriorated after the closure of the Shipyard. The area is growing and older portions are being revitalized.

The area is geographically at the heart of the tri county area. All major transportation corridors run though the city, including Interstate 26, 526, Route 52 (Rivers Ave.), and Route 7 (aka Sam Rittenberg in West Ashley, and Cosgrove Ave in North Charleston). The Charleston Municipal Airport, the area's oldest major mall, (Northwoods Mall), and the area's coliseum and convention center are all located here. Power centers, big box retailers and super regional centers can all be found in North Charleston. Most major restaurant chains are located in the area. A regional outlet mall recently opened adjacent to the coliseum.

SOCIAL CHARACTERISTICS

Population: As of 2005, South Carolina had an estimated population of 4,255,083. This is an increase of 6.1% over 2000. The tri-county region (Charleston, Dorchester and Berkeley Counties) currently has an estimated population of 600,000 and is expected to increase to 624,000 by 2010. The gender distribution is 49% male and 51% female.

Charleston County is the third most populated county in the state. The 2003 population was 321,014 with 125,396 households. The growth rate from 1990 – 2003 was 8.7%. The gender distribution as of 2000 was 48% male and 52% female.

1990 Census	295,041 people
2000 Census	309,969
2003 Estimate	321,014
2005 Estimate	330,368
2007 Estimate	342,973

Individual cities had the following population counts in 2000:

City of Charleston	96,650	Ranked 2nd in the State
City of North Charleston	79,641	Ranked 3rd in the State
Mt. Pleasant	47,609	Ranked 5th in the State

Tourism: The economy of Charleston County receives a tremendous boost from tourism. The number one attraction in the State is the Patriots Point Navel Museum. Tourism provided an estimated annual economic impact of 5.3 billion dollars in 2008. In 2003, Charleston was ranked in Forbes Magazine as one of the top 10 destinations in North America. Demand for hotel rooms for the year increased from 221,507 in 2005 to 231,694 in 2006. The Average Daily Rate (ADR) and Occupancy Rate for various years is shown below:

	ADR	Occupancy	# Rooms
1998	$ 93.95	71.14%	10,258
1999	$ 98.11	69.98%	11,301
2000	$109.59	67.37%	10,997
2001	$107.80	64.70%	12,509
2002	$109.75	67.29%	12,988
2003	$105.72	68.24%	13,097
2004	$112.67	67.78%	13,405

At the end of 2003, Room Rates were down on average, but occupancy had increased from 2002. In 2003, Charleston was ranked in Forbes Magazine as one of the top 10 destinations in North America.

The greatest occupancy month is typically April and the lowest is December. Charleston remains a vacation destination because of the variety of attractions. Points of interest in Charleston and surrounding areas are Fort Sumter, Magnolia Plantation and Gardens, historic homes, fine dining, carriage tours and area beaches. There are 25 golf courses in the local area including several world renowned resort courses.

Education: Several institutions of higher learning are located in Charleston County. The Citadel, College of Charleston, Trident Technical College, MUSC Medical University of South Carolina and the Charleston Southern University provide educational services to the community. There are 79 public schools within the Charleston County School District and 25 private schools.

In the 2002 – 2003 school year, 41,719 students were enrolled in the Charleston County School System compared to Berkeley @ 26,297 and Dorchester @ 19,266. As of the fall of 2003, 35,991 students were enrolled in local college and universities including 11,791 @ Trident Tech; 11,624 @ the College of Charleston, and 4,057 at the Citadel.

Medical Services: Charleston County has several hospitals, including: Roper Hospital, Trident Hospital, East Cooper Regional Medical Center, Roper North, St. Francis Xavier, the VA Medical Center and MUSC. The presence of the Medical University of South Carolina (MUSC) makes Charleston a statewide center for medical treatment. MUSC was the first medical university to be established in the southeastern United States. In the late 1990's St. Frances Xavier opened a new hospital facility in the West Ashley area. In October 2003, MUSC announced (after several years of debate) it secured permission and approval to build a new $292 million hospital. (opening in 2007). In 2005, East Cooper Regional was granted permission to build a new hospital in Mt. Pleasant. The permitting for this hospital was underway in 2003, and there had been extensive discussion in local media outlets about the proposed new hospital.

Recreation: Charleston County has long been the seat of cultural entertainment for the area with the City of Charleston hosting several annual cultural events. Spoleto USA is a summertime festival of the fine arts, including performing arts to painting, sculpture and environmental or site art. It is world famous and is affiliated with the annual festival in Spoleto, Italy. There are symphony offerings, ensembles, instrumental solo performances, opera, operettas, various choral offering, plays, painting and sculpture exhibits as well as multimedia exhibits. Piccolo Spoleto offers family and kid friendly exhibits and venues. Several other food, arts, and sporting events are hosted within the County and Tri-county area.

As a coastal community, there are many area beaches, rivers and streams providing boating and fishing activities. The North Charleston Coliseum is host to many top performers as well as home to the local Stingrays hockey team. The city is also home to the semi-pro Charleston River Dogs baseball team. Several upscale resorts are located in the county, including Wild Dunes, Seabrook Island and the world famous Kiawah Island Resort.

Transportation: The Port of Charleston is a major employer and has a great impact on the economy. In 1999, TEU's at the port totaled just over 1,000,000. By the end of 2003 that number was at 1,750,000. The 2004 Port output units totaled 1,800,000. The Port of Charleston still remains one of the busiest ports along the Atlantic coast.

Vehicular traffic is served by Interstate 26, which is the major east west interstate in South Carolina. Interstate 526 provides suburban access. It intersects Interstate 26 and provides a connection of the northern and southern portions of the county, and circles the Charleston Peninsula. SC Highway 17 roughly follows the South Carolina coast, providing access to points up and down the coast. Air transport is provided by the Charleston International Airport, which is served by most of the major airlines. Cruise traffic out of the port of Charleston grows yearly and serves to enhance tourism in the downtown when cruise ships disembark.

ECONOMIC CHARACTERISTICS

Economic: The national economic condition has been reasonably stable over the past several years. One National Economic Indicator, the Prime Lending Rate, was as follows:

	Prime Lending Rate
July 1999	8.00%
Nov 1999	8.50%
Feb. 2000	8.75%
Jan. 2001	9.00%
Jun. 2001	6.75%
Dec. 2001	4.75%
Nov. 2002	4.25%
Jun. 2003	4.00%
Jul. 2004	4.25%

At the end of 2003, the US unemployment rate in the US was 5.7%. By contrast, the rate in Charleston County was 5.0. Charleston's rate was 12% below the national rate and 25% below the SC rate. The below chart shows that Charleston's rate has historically tended to be better than South Carolina's and has rarely been worse than the US rate.

Unemployment Rate	US	Charleston	So. Carolina
1999	4.0%	4.3%	3.9%
2000	4.0%	2.9%	3.7%
2001	5.7%	4.4%	5.9%
2002	6.0%	4.8%	6.3%
2003	5.7%	5.0%	6.7%
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2004	5.4%	5.2%	6.9%
2005	4.8%	5.0%	6.7%

The following is a list of major employers that were located within the area as of 2003.

Employer	Service or Product	# of Employees
US Navy	Military	12,543
US Air Force	Military	6,655
Chas County Schools	Education	5,000
Roper/St. Francis	Medical	4,000
Berkeley County School	Education	3,457
Piggly Wiggly	Grocery	2,447
Robert Bosch	Automotive	2,042
Charleston County	Government	2,243
City of Charleston	Government	1,600
Mead Westvaco	Paper Making	1,060

The Federal Government and State Governments are well represented in the area with the Charleston Air Force Base located in North Charleston. The NOAA Southeast Coastal Center, the Clemson Extension Vegetable Research Center are also located in the county.

Military Impact: The impact of the military installations and associated civilian defense contractors on the Charleston economy is significant second only to tourism. Below is a list of personnel employed as various military related employers.

Installation	2003	2006
Space & Naval Warfare Command	7,252	10,008
Charleston Air Force Base	6,655	7,920
Naval Training Command	3,000	2,700
VA Medical Center	1,066	1,066

Real Estate: Commercial and residential development has shown steady growth since the mid 1990's. The multi-family market tends to be volatile as the 12 year chart illustrates. Though national trends show a downturn in 2007 and 2008, the Charleston and tri-county area did not show a similar downtrend until very late 2007 into 2008. This information is being included, although after the date of value, to illustrate that at the end of 2003 the highly volatile multi-family market was strong. At this time, it was impossible to predict any future peaks and/or major downturns in the market. Permits indicate confidence by borrowers well into 2007. The number of commercial, single family and multi-family construction permits pulled in the county is as follows:

	Commercial Permits	SFR Permits	Multi-Family Permits
1997	170	2,201	383
1998	200	2,263	1,645
1999	220	2,694	1,685
2000	242	3,127	915
2001	198	2,482	845
2002	124	2,992	438
2003	168	2,567	1,050
------	-----	-------	-------
2004	204	2,634	401
2005	355	3,055	1,666
2006	298	2,761	1,255
2007	193	2,127	937
2008	149	1,223	163

The data shows a strong local economy through 2003, with no real indication as of the end of 2003 of a drop of any type of construction. Multi-family construction appeared to be on a cyclical upswing in 2003. Single family permits showed a slight range throughout the period, without any major or significant drop in permits until 2008. The multi-family market shows great variation, with the most recent spike from 2005 – 2007, coincidental with the trend toward condominium conversion from multi-family. Again this data is included to help dispel any influence more recent articles might have on the reader. In 2003 sales prices were climbing for single family and multi-family and continuing to climb through 2006. Volume was also increasing. Single family prices increased 7.9% annually from 2001 -2003. Multi-family prices increased 7.8% annually through the same period.

Records within the Charleston County Assessor's office reported the following sales data for Charleston County:

Year	Volume of Sales	Average of Sales	Median of Sales
2001	5,842	$234,956	$165,900
2002	6,197	$249,690	$177,645
2003	7,287	$271,937	$191,900
----	---	---	---
2004	7,930	$318,622	$220,000
2005	8,559	$372,546	$253,280
2006	7,486	$403,283	$260,000
2007	5,944	$403,597	$255,820
2008	4,020	$383,979	$253,633
2009	3,408	$355,857	$240,000

From 2001 – 2006, this represents an average increase in median sales price of 11.3% per year for multi-family, which was followed by relatively flat conditions through 2008. The number of sales nationally fell 13% in 2007. These increases corresponded with a steady growth in the volume of sales, averaging 11.6% through 2005 before the market slowed by an average of 37.6% through 2008. The SC average decline was 10.5% and Charleston's sales volume decreased 22%.

The residential condo sales trends show more units were being sold from 2001 – 2005, peaking in 2005. However, volume in 2007 was well above the levels in 2001, 2002, & 2003. Sales prices climbed steadily through 2006, and 2002 shows a sharp price peak due to a few very expensive condo developments coming on line. Prices in 2006 -2009 remained above 2001 and 2003 levels.

Year	Volume of Sales	Average of Sales	Median of Sales
2001	711	$222,307	$139,900
2002	1,035	$309,355	$200,000
2003	1,428	$279,773	$155,000
----	---	---	---
2004	1,894	$264,820	$160,000
2005	3,085	$260,001	$176,000
2006	2,187	$288,432	$205,900
2007	1,820	$328,574	$202,500
2008	971	$382,959	$207,000
2009	627	$301,649	$179,216

County sales showed a steady growth in volume through 2005, inclusive of conversion of apartments, new construction, and resales. Though dropping in 2006 and 2007, volume was still nearly double that of 2002. Sales volume dropped again in 2008, however the volume had essentially returned to 2002 levels. Median prices rose steadily through 2006, and remained nearly level through 2008. Again, this information is being provided solely to help distinguish recent publicity from known facts as of the effective date of value.

Rental rates and vacancy in the Charleston Metro Region for multi-family housing were as follows:

Study Date	Mo. Rent	% Vacancy
12/2002	$678	8.9%
06/2003	$687	7.6%
02/2004	$698	7.5%

Retail Space Market: Charleston is home to a growing retail shopping market. In 2003, the amount of inventory in the metro area was between 12 million and 13 million square feet. Factors influencing the retail market include the strong tourism industry, residential growth, and the strong economy, while the retail market spurs the tourism market as well.

Shopping Center Space

	SF	Vacancy
1999	11,354,901	10.7%
2000	12,278,197	11.2%
2001	12,333,817	11.8%
2002	13,001,699	12.2%
2003	12,683,726	10.3%
------	----------	--------
2004	15,428,504	9.3%

Retail Sales in Charleston County (Millions)

1999	$8,637,946
2000	$9,239,981
2001	$8,933,352
2002	$9,210,712
2003	$9,643,330
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2004	$9,722,614

SUMMARY AND CONCLUSION

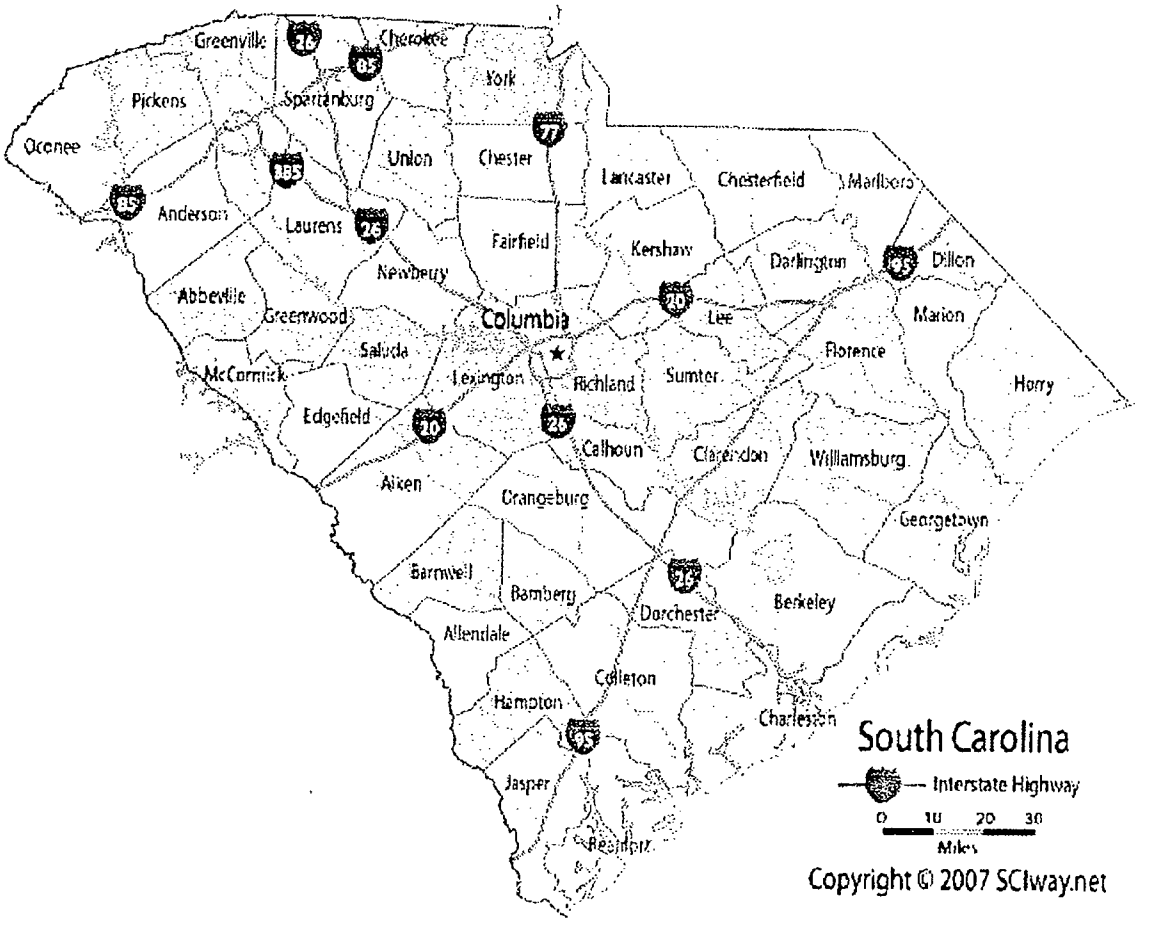
In summary, Charleston County and the surrounding tri-county area has a strong economic forecast fueled by growth, tourism and amenities that attract both visitors and business owners. These balanced factors create a stable economic environment in which to do business and a stable real estate market. With all the factors in places and in balance, real estate and related businesses should continue to find Charleston County offers tremendous opportunity.

At the end of 2003, national sentiment and public attention was in the midst of a strong economy and growth cycle after recovering from the post 9/11 downturn. Nationally, and locally, there were no indications of any potential slowdowns in the market, economy, or regional outlook.

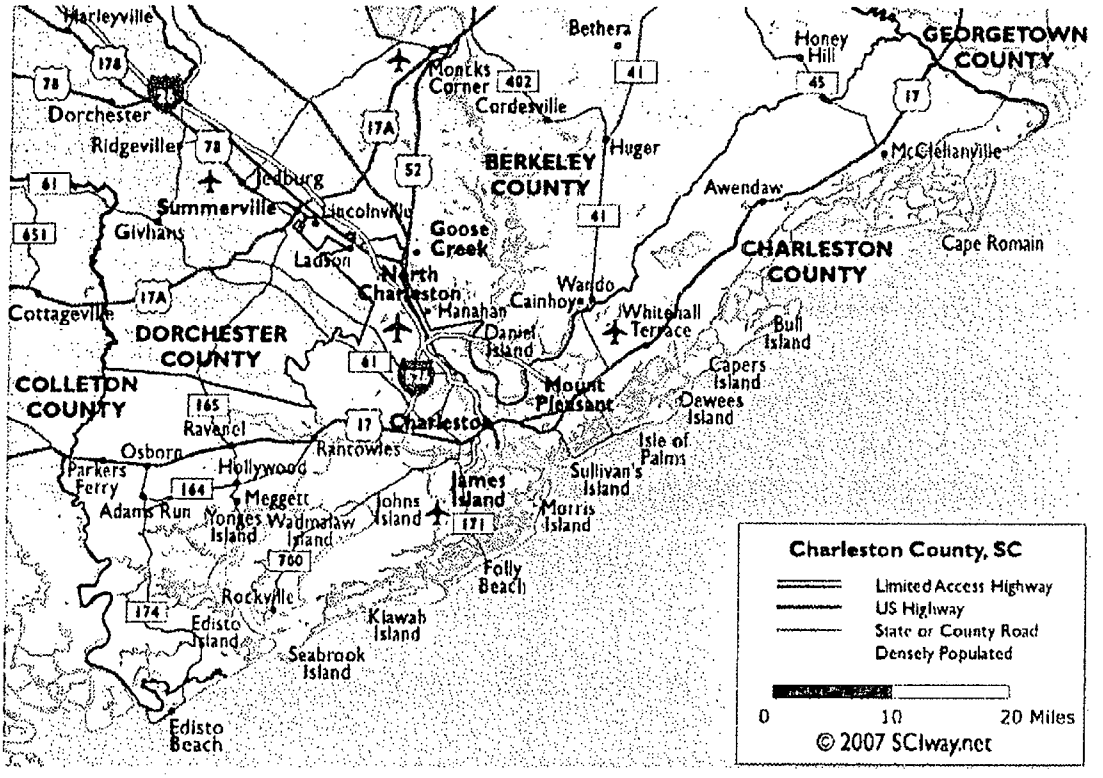
As a retrospective assignment and report, the evidence seen in years since 2003 was not available at the end of 2003. However, it is considered to support any trends that might have been in evidence in late 2003.

Sources: US Bureau of the Census, Commerce magazine and Charleston County online service, Chamber of Commerce, Charleston for business.com, New and Courier, Grubb Ellis, Collier Keenan Reports and Charleston County Economic Development Office

SOUTH CAROLINA STATE MAP



CHARLESTON COUNTY MAP



NEIGHBORHOOD ANALYSIS – MOUNT PLEASANT

The subject property is located in an area commonly referred to as East Cooper, which includes Mount Pleasant. From 1995 to 2000 the Town of Mt. Pleasant grew by 28% making it the sixth largest municipality in South Carolina. The 2005 census listed the population at 57,932 persons. The Mt. Pleasant area is bounded on the west by the Cooper River and on the south and southwest by the Intracoastal Waterway. To the north lies the Wando River. The approximate northwest boundaries in the East Cooper Area are being pushed out past Hwy 41 toward Francis Marion State Forest as development continues to move to the north.

GEO-POLITICAL JURISDICTION

Politically, the area is partially contained in the Town of Mt. Pleasant, and is partially in an unincorporated area of Charleston County. Most Public services are provided by one of the following: the Town of Mt. Pleasant or Charleston County. The Town of Mt. Pleasant provides full municipal services while Mt. Pleasant water works provides water and sewer with electric service provided by either South Carolina Electric and Gas or Berkeley Electric, depending on the property location.

TRANSPORTATION

The neighborhood is well served by major transportation routes providing linkage to employment and all parts of the state. US Highway 17, Interstate 526, Route 41, and the Isle of Palms connector are the major corridors in the area.

US Highway 17 is a major northeast/southwest route through the low country of coastal South Carolina. Highway 17 provides access from North Carolina through South Carolina into Savannah, Georgia. In Charleston County, Highway 17 links the north rural areas beyond the Mt. Pleasant area, continuing through the heart of the Charleston peninsula and West Ashley, and on through the southern rural areas of the county. Most of Highway 17 throughout the state is four or more lanes. This route remains the most heavily traveled coastal highway in South Carolina. Much growth in the county has been centered around the commercial corridor formed by this route through the county.

Interstate 526 links the east and west bound I-26 to the East Cooper and West Ashley areas, providing access on both ends to US Highway 17. Also known as the Mark Clark Expressway, I-526 provides a partial beltway around Charleston. The completion of the I-526 Bridge and Hwy 17 interchanges has fueled almost explosive growth in those areas. This growth is expected to continue for the foreseeable future.

Real Estate: Commercial and residential development has shown steady growth since the late 1990's. From 1997 – 2001, growth in housing in Mt. Pleasant was explosive. As a result, the town placed a growth cap (moratorium) on new residential construction that is reflected in the 2001 reduced volumes. This was in effect for several years past the effective date. The moratorium effectively stopped new multi-family units from coming on line after 2001. Though national trends show a downturn in 2007 and 2008, the Mount Pleasant area did not show a similar downtrend in all areas until very late 2007 into 2008. The number of commercial, single-family, and multi-family construction permits pulled in Mount Pleasant is as follows:

	Commercial Permits	SFR Permits	Multi-Family Permits
1997	33	819	7
1998	38	915	684
1999	53	1,189	530
2000	44	1,391	127
2001	50	776	400
2002	26	943	21
2003	37	926	8
2004	55	905	65
2005	73	894	413
2006	93	772	340
2007	36	343	0
2008	30	224	88

The data shows a strong local real estate market through 2007, with no real indication as of the end of 2003 of a drop in commercial construction. Multi-family permits were very irregular through the period, with a small spike in 2005 – 2006 coincidental with the major push toward conversion to condominiums during the same time frame. Again the post 2003 data is included only to place in perspective more recent economic real estate news and articles.

RETAIL DEVELOPMENT & TRENDS

The Mt. Pleasant area has experienced substantial growth in retail sales over the past several years and is served by numerous community and neighborhood retail centers. Major discount chains and "big box" retailers such as Wal-Mart and Lowe's provide additional shopping opportunities.

Much of the new retail space is located in the areas where I-526 and Highway 17 converge. As residential growth continues to push to the northeast and north, retail growth is following along the major Highway 17 and Route 41 corridors. Within the I-526 beltway, land is densely developed with little room for new development. Additional new development has extended along Highway 17 toward the northeast for nearly a mile past the Route 41/Highway 17 intersection.

MULTI-FAMILY DEVELOPMENT AND TRENDS

According to the Real Data Apartment Market report dated July 2000 there were various class of apartment complexes in various stages of completion in Mt. Pleasant. Through the next decade, many changes took place in the Multi-Family market, as conversions to condominium units decreased the supply, and kept the demand for rental units high, as evidenced by the continued rising rents despite the economic conditions locally and nationally.

	New Units	Vacancy	Average Rent
2001	448	18.1%	$831
2002	240	16.6%	$821
2003	0	7.1%	$831
------	------	--------	-------
2004	-320	6.7%	$854
2005	-585	3.3%	$864
2006	-491	3.1%	$889
2007	13	7.5%	$921
2008	-104	7.8%	$949

NOTE: The negative "New Units" indicates the result of conversion of units from apartments to condominium units, with less new apartment units available – a net decrease in apartments during the period. Again, the later data places the market into perspective.

RESIDENTIAL DEVELOPMENT

Most residential growth has occurred just off the Highway 17 and 41 corridors. Large new subdivisions have been and continue to be developed that offer many amenities. Market data from the Assessor's office indicates a similar trend to the county data as follows:

	Mount Pleasant		
Year	Volume of Sales	Average of Sales	Median of Sales
2001	1,951	$239,722	$200,000
2002	2,165	$249,423	$216,000
2003	2,479	$269,636	$229,900
-------	---------	----------	----------
2004	2,338	$318,129	$270,000
2005	2,369	$395,667	$330,350
2006	1,861	$459,792	$375,000
2007	1,407	$458,542	$385,000
2008	1,119	$452,379	$365,000
2009	963	$401,300	$332,000

A relatively steady sales volume throughout the early 2000's indicated a strong market through 2005, prior to a steady decline through 2008. **(NOTE: Mt. Pleasant had a moratorium on building during this period, which influenced the volume of new construction)**. Median prices were in the midst of a steady rise through and beyond 2007, with minimal declines seen in 2008. As of 2003, sales volume was strong, and would have been expected to continue at high levels. Due to the moratorium/cap on new residential construction, any existing multi-family units were in a strong position for conversion to condominiums as barriers to entry were high in the area. The 2001 – 2003 data shows steadily increasing volumes and steadily increasing average and median sales prices.

CONDOMINIUM DEVELOPMENT

The condominium market in the Mount Pleasant area is divided into several submarkets, either by location (inside or outside the Mark Clark (aka Interstate 526) or marsh or non-marsh influence); by construction as flats or townhouses, as well as amenities and overall condition of the units and complexes. During the late 1990's and early 2000's, several large apartment complexes were converted into condominium regimes, while a few large new condominium complexes came online. The result was a large influx of condominiums throughout the Mount Pleasant area. With the strong economy throughout the region, the market was capable of absorbing this influx without a dramatic change in vacancy, with absorption rates (sales) averaging upwards of 60% to 75% of listings. This trend was consistent through 2007, with a large change in absorption not seen until 2008.

Year	Volume of Sales	Average of Sales	Median of Sales
2001	151	$135,675	$129,000
2002	233	$342,310	$145,590
2003	303	$180,850	$135,000
----	-----	-----	-----
2004	369	$162,968	$134,900
2005	906	$209,862	$178,250
2006	573	$241,336	$205,510
2007	508	$292,207	$191,000
2008	302	$274,493	$179,000

Sales from 2001 to 2003 doubled. Prices show a spike in 2002 due to one high end condo complex. Sales were strong in 2002 - 2007, as sales volume remained at or above 2003 levels through 2008. Sales prices continued to increase throughout this period, and up until 2006, were not a factor in the marketability of units. However, as condominium prices peaked in 2006, they continued to remain well above 2003 prices well into 2008. The rising prices of condominiums approached the lower end of single family dwellings, and condominium pricing became very sensitive to the alternatives available in the market. Again, data after 2003 would not be known, but the data as of the end of 2003 is reflective of a strong market.

SUMMARY & CONCLUSIONS

The Mt. Pleasant area benefits from a good transportation base, its proximity and central location near Charleston, and easy access to other areas via Highway 17, I-516, and the Ravenel Bridge to Charleston. With a 1999 median household income of $61,504 and a per capita income of $30,823, it was the 5th most affluent municipality in the top 15. Its income level was exceeded only by the resort islands (IOP, Kiawah, Sullivan's Island & Seabrook). The Mt. Pleasant area has been and continues to be one of the fastest developing areas in the state. Historically, its various markets have been strong, and have always provided an upscale suburban setting. Growth in the area is expected to regain momentum, particularly in the areas near the major commuting/travel corridors.

Sources: US Bureau of the Census, Commerce magazine and Charleston County online service, Chamber of Commerce, Charleston for business.com, New and Courier, Grubb Ellis, Collier Keenan Reports and Charleston County Economic Development Office

MARKET ANALYSIS

In considering and discussing the real estate market in Charleston, Mount Pleasant and the condominium and apartment markets as of the date of value (December 31, 2003), I have already stated that it is best under USPAP to use the effective date of value as the cut off date for data *considered* by the appraiser. I have however included economic and market data that is past the December 31, 2003 date of value.

I have done so because there has been much publicity in the last two and a half years about the economy and the real estate market. I have used the data I included to assist in demonstrating when market participants would have had what information, when they would have realized that changes were occurring and come to certain conclusions. I have used the data to confirm trends believed to be in place at the end of 2003 and to indicate when realizations about the market changed and to place those market changes into perspective locally, and into perspective regarding more recent trends.

CHARLESTON COUNTY: RESIDENTIAL/APARTMENT MARKET

The residential and apartment market has undergone extensive changes through the recent decade. A strong regional residential and commercial market followed the national trends, with the Charleston County market continuing to show strength through 2003 into 2008, while the national economic and real estate trends began to show weakness early in 2007. In 2003 the national economy had emerged from a downturn, and optimism was prevalent.

Except for 3 extraordinary years in 2003, 2005, & 2006, permits for new multi-family units have been relatively steady within the county at right around 1,000 units per year. Condo conversions were very strong in the early years of the decade, peaking in 2005, and nearly disappearing by early 2008.

Actual Sales prices have always been an indicator of the strength of a market, and Charleston County is no exception. As per the Trident Association of Realtors, as well as the total sales within the market as recorded within the Charleston County Assessor's records, the number of sales peaked in 2006 and 2007, with strong sales continuing well into 2008 before a drop to more typical pre 2003 levels was seen in 2008. As of 2003 the multi-family and single family markets were strong and conversions of apartments to condominium regimes had begun.

Analysis of this single family market reveals that the peak in sales volume preceded the peak in average prices by nearly 1-2 years. This lag in sales price versus the volume of sales of residential units can be attributed to, among other factors:

- sellers holding to their listing prices while fewer sales were taking place (slow to react to market conditions)
- Unsophisticated sellers not educated to the price sensitivity in the market.
- Owners not able to drop values below indebtedness (no equity)
- Pentup demand driving conversion of apartments to condominium regimes

Similar trends could be seen throughout the county during this period from 2005 to 2008. None of the price or volume peaking, or subsequent price declines, were in evidence in 2003. Again, post 2003 information is discussed solely to place the 2003 market in perspective. As of the end of 2003, there was no way to predict any future peaks and/or downturns in the market.

CHARLESTON COUNTY: CONDOMINIUM MARKET:

The condo sales in the Charleston County market showed a relatively strong, but steady volume through the last decade. Conversions and construction of new condominiums began to be noticed as a market trend in 2002 – 2003. During 2002 - 2007, several large apartment conversions "flooded" the market with additional sales, spiking the sales volume during these years to nearly 1.5-3 times the typical volume. By 2008, the volume of sales had returned to more typical levels seen in 2002 and earlier.

Sales prices of condominiums throughout the county showed a steady climb through 2005, showing a significant increase in 2006 – 2008, before returning to 2005 levels in 2009. As of Tax Year 2008 sales were still well above 2003 levels. Charleston County records indicate that condo pricing rose faster than the single family market sales prices, and reached a level where single family dwellings became a realistic alternative. This is in contrast to the national trend where rising single family home prices resulted in demand for condominiums as a more affordable alternative.

Several observations can be made relative to this market:

- From 2001 through 2006, sales of all properties were strong. Listed properties sold quickly, with minimal marketing and salesmanship necessary. Any listed property was selling in days and weeks, instead of a more modest (and historically typical) 45 – 90 day marketing period
- The steady increase in sales prices of condo units from 2001 – 2006 was extremely unusual, rising faster than single family dwellings.

MOUNT PLEASANT: RESIDENTIAL/APARTMENT MARKET:

As noted above, Mt. Pleasant has led the county in growth and value for the last decade. Except for pockets such as the historic peninsula of downtown Charleston, the real estate market in Mt. Pleasant has kept a strong base of growth, volume, and rising sales prices and per square foot prices through the mid 2000's. Economic conditions in the national and regional real estate markets were strong throughout the local market through 2007. Similar to county trends, volume peaked in 2005, remained strong through 2006, with only a slight drop in volume in 2007.

MOUNT PLEASANT: CONDOMINIUM MARKET:

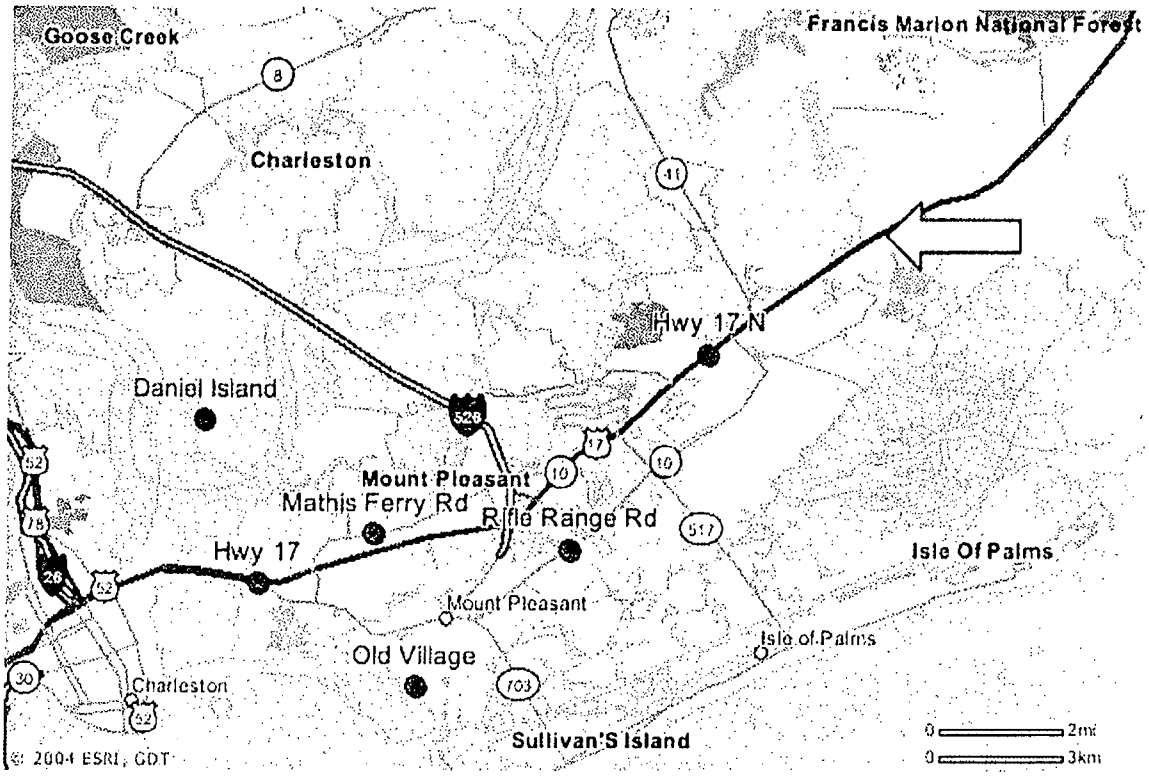
The condo sales in the Mt. Pleasant market showed a relatively strong, but steady volume through the last decade. Conversions began to show up in Mount Pleasant in 2003 & 2003. During 2002 – 2007, several large apartment conversions "flooded" the market with additional sales, spiking the sales volume during these years to nearly 1.5-3 times the typical volume. By 2008, the volume of sales had returned to more typical levels seen in 2002 and earlier.

Sales prices of Mt. Pleasant condominiums remained relatively flat from 2002 through 2004. It appeared that in 2005 there was pentup demand for condos, evidenced with a huge spike in sales (250% increase over 2004), and a 32% median sales increase in sales prices. Simultaneous to the major "conversion" activity, prices remained strong and jumped by another 12% through 2006 and 2007. (Unlike the county as a whole, the increase in prices of sales followed the residential trends, and single family dwellings were not quite an alternative for condo ownership in Mt. Pleasant.)

Several observations can be made relative to this market:

- As of approximately 2001, a moratorium on new construction was initiated by Mt. Pleasant that lasted for several years. Any existing property benefited from this moratorium due to the new barriers to entry for new construction developers. The moratorium provided a stimulus for conversion of apartment buildings/developments to horizontal property regimes, providing a flood of condominium units into the market during 2001 – 2007.
- At the same time, the conversions created a dearth of multi-family units, creating higher demand for apartments, and extremely low vacancies (i.e. negative absorption rates).
- Sales of condominiums in Mt. Pleasant show a relatively level volume from 2002 through 2008 when accounting for/removing the "flood' of conversion units in 2005 - 2008.
- Coincidental with the condominium conversions, there was a spike in newer multi-family developments coming online, resulting in a glut of similar properties for sale and/or lease, resulting in higher vacancies, concessions, and lower rental prices toward the end of the period.

MOUNT PLEASANT MAP



THE PARCEL: IDENTIFICATION and DESCRIPTION

SITE DESCRIPTION

PROPERTY APPRAISED:
121 Condominium Units
The Legends Horizontal Property Regime
1100 Legends Club Drive
Mt. Pleasant, Charleston County, South Carolina

Property ID: 121 Parcels that are part of the Legends HPR
(See List in Addenda)

ZONING:
Town of Mount Pleasant Zone: PD: Planned Development District.

The subject property use, occupancy and style of construction is compatible and homogeneous with the surrounding neighborhood; the current use/occupancy as apartments (prior use) and condominiums (current use) does conform with the current PD: Planned Development District and does meet all of the bulk setback requirements:

LOCATION:
The subject is located just off US Highway 17N at the entrance to the Charleston National Golf and Resort Community in the easternmost neighborhood of the Town of Mt. Pleasant, SC. The property extends parallel to US Highway 17N forming the northeastern boundary to the resort community. Access is provided via National Drive on the southeast, and Old Course Drive on the northeastern edges of the site.

PARCEL:
This parcel was previously comprised of one taxable parcel as noted above, with separate taxable parcels created for each condominium unit as defined by the Regime documents filed as noted in the Sales History above.

FRONTAGE:	US Highway 17N – (There is an internal "Legends Club Drive" which forms the access roadway through the community.)
SIZE:	998,395 sq. ft. = 23.22 Acres
SHAPE:	Irregular – Nearly Rectangular - see tax maps

FLOOD ZONE:
Zone "X" - Community Panel: #45019C0345J dated 11/17/2004. This flood classification indicates the subject is not in a flood zone –no regular flooding is anticipated.

ACCESS/VISIBILITY:
There is a main vehicular entrance into the subject property at either end of the elongated parcel. Visibility is limited from US Highway 17 (buffer area), with greater visibility into/out of the site from and along the internal Legends Club Dr. Visibility into and out of the site is adequate in both directions and considered favorable for a residential development.

PARKING:

There is at least one open/unassigned parking space per unit, with additional guest parking included throughout the site. Certain models have garages with provides additional driveway and garage parking dedicated to those units.

EASEMENTS:

No easements, encroachments, encumbrances, leases, covenants, unusual circumstances or other items of similar nature were found on the site at the time of the appraiser's visit, or upon review of public records. Typical easements are found for provision of utility lines to each unit and to the site itself.

PHYSICAL DESCRIPTION:

Topography:

The property is level and level with road grade. Drainage appears adequate.

Vegetation:

Most of the lot is paved and/or grass, with typical foundation plantings around the buildings. There remain unmanicured woodlands adjacent to US Highway 17 (buffer area) and the borders of the site on the sides.

Wetlands:

.30 Acres noted on site – not restrictive to development in impactful toward utility of the site

Environmental Assessment:

The appraiser is not an environmental expert, however no information has been provided to the appraiser to suggest any known environmental problems.

Improvements:

There are 15 buildings within the HPR, containing a total of 200 townhouse style condominium units comprised of One, Two & Three Bedroom Units. As of 12/31/2007, 56 units had sold, with 144 units remaining under ownership of the Regime. (One unit was sold in early 2010, and is not included as part of the subject property for this assignment). 22 units owned by the Regime owners have been reserved for marketing for sale, and the remaining 121 units (61 – 1BR/48 – 2BR/12 – 3BR) are the subject to be considered for this assignment. 14 of the buildings are slab on grade, two story buildings which comprise the 200 units.

NOTE: The following are considered the common area and common improvements, and are not part of the subject property for this assignment: The 15th building is the clubhouse – a 3,511 SF single story commercial building. There are also 2 "accessory" out buildings currently utilized as a shed and maintenance garage. There is an in ground pool and one tennis court. The remainder of the site is paved access roadways, curbing, concrete walkways.

SOIL SURVEY BY USDA

The US Department of Agriculture has detailed maps for review. The subject is thought to be of the same soil as surrounding properties and supportive of development of improvements. Existing development on the site and in the area is evidence that low to mid-rise construction is typically supported by the soils.

HAZARDOUS MATERIALS:

The appraiser is not aware of any hazardous materials on or under the subject site.

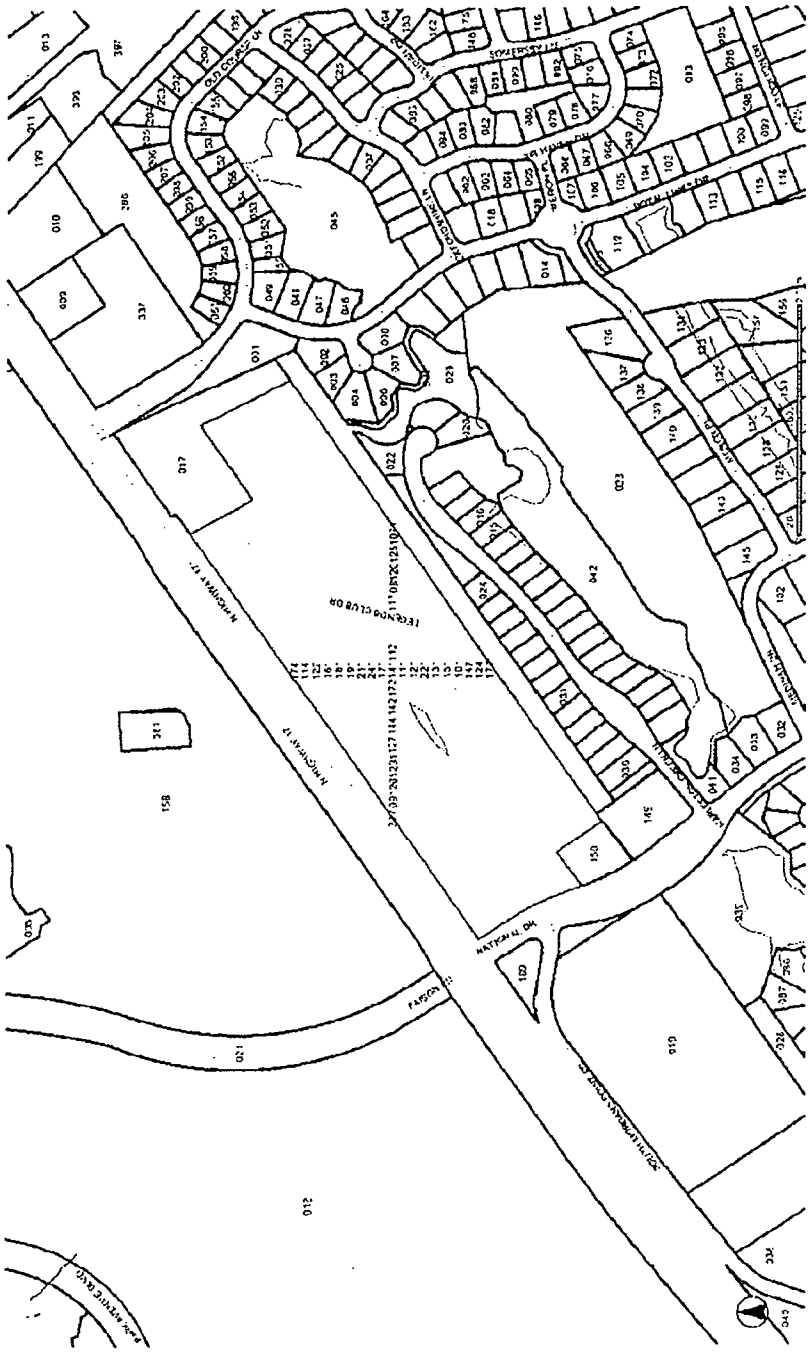
UTILITIES:

All public utilities (Natural Gas, Electric, Sewer, Potable Water) are available within the Right-of-Way of US Highway 17, as well as into the site, particularly along Legends Club Dr. Currently there are water, sewer, gas, and electric utilities located into the site serving the units.

REMARKS:

The subject site is considered above average for it's location adjacent to US Highway 17 and the Charleston National Resort and Golf Community in this Mount Pleasant neighborhood. No unfavorable site conditions were in evidence at the time of our site visit. The site is currently unencumbered with any major easements or known factors that limit utility and/or development of the site.

TAX MAP OF SITE



DESCRIPTION OF IMPROVEMENTS

PROPERTY APPRAISED:

121 Condominium Units
The Legends Horizontal Property Regime
1100 Legends Club Drive
Mt. Pleasant, Charleston County, South Carolina

BUILDING LAYOUT:

There are 15 buildings within the HPR, containing a total of 200 townhouse style condominium units comprised of One, Two & Three Bedroom Units. As of 12/31/2007, 57 units had sold, with 143 units remaining under ownership of the Regime. 22 units owned by the Regime owners were reserved for marketing for sale (one sold in late 2009), and the remaining 121 units (61 – 1BR/48 – 2BR/12 – 3BR) are the subject to be considered for this assignment. 14 of the buildings are slab on grade, two story buildings which comprise the 200 units.

NOTE: The following are considered the common area and common improvements, and are not part of the subject property for this assignment: The 15th building is the clubhouse – a 3,511 SF single story commercial building. There are also 2 "accessory" out buildings currently utilized as a shed and maintenance garage. There is an in ground pool and one tennis court. The remainder of the site is paved access roadways, curbing, concrete walkways.

UNIT SIZES:

Size	Unit Name	SF/Unit	Total Units	Owned As Of 12/31/07
1 BR	AZALEA	658	20	13
	AZALEA ELONGATED	743	12	10
	DOGWOOD	753	40	33
	MAGNOLIA	836	8	5
2 BR	JASMINE	1030	8	2
	JASMINE ELONGATED	1154	8	1
	JASMINE GARAGE	1050	8	6
	OLEANDER	1176	64	38
	OLEANDER GARAGE	1135	8	1
3 BR	CAMELLIA	1357	16	9
	CAMELLIA GARAGE	1377	8	3
Total			200	121

NOTE: The regime owners actually owned 200 units as of 12/31/2003, however the subject property is considered only 121 units within the Regime owned portion under appeal. 57 units sold and the remaining 22 units were being held for marketing for sale between 2006 and 2007.

NOTE: An Interior inspection was not made by the consulting appraiser. However, the information provided here is based on information obtained from MLS listings, inspections by other appraisers, realtors, and Ms. Sawadske's Reports referenced herein.

CONDITION:

The structures are in overall above average condition, while each unit is assumed to be in average to above average condition. No recent upgrades/renovations were noted in any site visits (by any of the appraisers from this office), or as noted in MLS listings, or from information derived from the owners. The main structures show typical wear and tear. The parking lot is average condition asphalt.

As per discussions with the owner during site visits and/or conferences with the assessor's office, upgrades were available to purchasers at an additional charge at time of purchase. Within this appraisal consulting assignment, I have considered that the regime would or should spend additional moneys to upgrade, replace, or otherwise improve the condition of each unit prior to marketing the units, at its expense. It is estimated that this would average approximately $1,500 per unit, expended during the year leading up to the anticipated sale of each of the units. It was reported through public sources (MLS and other sources) that some of the units were, or could be, upgraded with granite counters, etc.

ECONOMIC LIFE (AGE): 3 years/2000 built as apartments
EFFECTIVE AGE: 3 +/- years
REMAINING LIFE: 47 years

EXTERIOR:

Cement board siding over wood frame structure

NO. OF STORIES:

2 story

ELEVATOR:

None noted

FLOOR CONSTRUCTION:

Concrete slab-on-grade – 1st floor with wood frame on 2nd floor.

WALLS:

Wood frame structure with drywall in most areas; Ceramic tile in bathrooms

ROOF:

Wood frame construction covered by composition roofing

CEILING HEIGHT:

7' - 8' clear interior

OVERALL HEIGHT:

Less than 25' +/-

LIGHTING:

Incandescent lighting

HVAC:
Electric Forced Hot Air/Central Air within each unit

HOT WATER:
Individual water heaters for each unit; typically 30 gallon water heater for each unit

ELECTRIC:
Separate 100 amp service to each unit; separate metering for each unit

SPRINKLERS:
None

SEWERS:
Building connected to municipal sewer

LAVATORIES:
Minimum One - 3 fixture bathroom per unit

KITCHEN FIXTURES:
All units have a full kitchen with refrigerator, stove, dishwasher and microwave

BASEMENT:
No basement.

SUBJECT PICTURES



Front of Typical Unit



Rear of Typical Unit

ZONING: PD - PLANNED DEVELOPMENT DISTRICT.

Purpose of District: The purpose of the Planned Development District is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the provision of streets and utilities; and to preserve the natural and scenic features of open areas.

General Conditions: Any area may be zoned as a Planned Development District, if any one or more of the following conditions are met:

1. More than one principal land use is proposed for development on a parcel under single or multiple ownership or management;
2. Separate land uses, which would not otherwise be permitted to locate within the same zoning district, are proposed for development on one or more adjacent parcels under single or separate ownership or management;
3. Exceptions or variations to the site or design and dimensional requirements of the chapter are essential to the project.

Specific Requirements: In order to qualify for a Planned Development District zoning classification, a project must be not less than five acres, and meet one or more of the following specific requirements:

1. The project qualifies as a Traditional Neighborhood Development under the criteria set forth in division (H) of this section;
2. The project qualifies as a Conservation Design Development under the criteria set forth in division (I) of this section;
3. The project qualifies as a Commercial Village Project under the criteria noted within the zoning regulations.
4. The project qualifies as an economic development project under criteria determined by Town Council.
5. The project qualifies as a mixed use planned development zoning district classification pursuant to the criteria set forth in divisions (J) or (K) of this section.
6. The project qualifies as a workforce housing planned development zoning district classification, pursuant to the criteria set forth in division (L) of this section.

Permitted Developments: Any planned development that meets the provisions of this chapter and Is considered by the Planning Commission and Town Council for PD classification may be so classified.

Permitted uses:

1. Any use proposed by the developer and considered by the Planning Commission and Town Council as being compatible to other nearby uses within and beyond the district may be permitted in such district, upon approval by the Planning Commission and Town Council.
2. A listing of permitted uses within a particular PD District shall be adopted as part of the regulations applying to that district.
3. After approval by the Planning Commission and Town Council, the list or portions thereof shall be adopted as part of the regulations applying to that particular PD District.
4. Thereafter, the uses permitted in the district shall be restricted to those listed, approved and adopted.

General Design Criteria and Development Standards:

1. Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, size of structures, street patterns, and use relationships. Variety in building types, heights, facades, setbacks, and size of open spaces shall be encouraged.
2. Densities per acre for residential dwelling units for each PD District shall not exceed the requirements of § 156.104.
3. Parking, loading and other requirements for each PD District may be set by Town Council, upon recommendation of the Commission.
4. Bufferyards, as prescribed by § 156.201, shall be provided along the periphery of a PD. The type of bufferyard shall depend on the proposed peripheral use and the adjacent land use, in accordance with the Table of Bufferyard Requirements.
5. Areas designated for parking and loading or for traffic ways shall be physically separated from public streets by suitable barriers against the unchanneled ingress and egress of motor vehicles.
6. Commercial, industrial, institutional, and multifamily uses shall have not more than two access points to any one public street, unless unusual circumstances dictate otherwise.
7. All uses shall be located at least 100 feet from the intersection of any street lines, and shall be designed in a manner conducive to safe ingress and egress.

ASSESSMENT and REAL PROPERTY TAXES

Real Property: The subject properties are assessed at a 6% ratio, which is standard for all non-owner occupied properties under South Carolina law. The last county-wide reassessment for Charleston County was implemented in 2005 with an effective date of value of December 31, 2003.

NOTE: The appraised values below are a weighted average of the 2003 value for that unit type as of 12/31/2003 (Tax year 2008). Currently, the owner is paying 80% of these taxes as per appeal requirements.

In order to calculate the base taxes the following formula is used:
(typical individual parcels)

	1 BR	2 BR	3 BR
Appraised Value	$120,984	$184,396	$211,250
X Assessment Ratio	x 6%	x 6%	x 6%
= Assessment	$ 7,259	$ 11,063	$ 12,675
X Millage for the area	x 0.2156	x 0.2156	x 0.2156
Base Tax	$ 1,565.05	$ 2,385.35	$ 2,732.73

The base tax is then reduced by credits due to a local option sales tax credit. This tax credit is calculated by multiplying the appraised value by the county tax credit and if any, the local authority (municipal) tax credit. There is also a User Fee of a fixed $99 charged to the taxpayer.

The net tax is figured as follows (all numbers are rounded to the nearest dollar):

	1 BR Units	2 BR Units	3 BR Units
Base Tax	$ 1,465	$ 2,385	$ 2,733
Less Credits County (-.00071)	($ 123)	($ 188)	($ 215)
Town Credits (-.00031)			
Plus User Fee	$ 99	$ 99	$ 99
Net Tax	$ 1,441	$ 2,296	$ 2,617
Minus 11.94% deduction from BAA	($ 172	($ 274)	($ 312)
Tax on each unit model:	**$ 1,269**	**$ 2,022**	**$ 2,305**

NOTE: Whereas the subject is under appeal by the taxpayer, the taxpayer is only required to pay 80% of the noted net tax, and the taxes are subject to change pending the outcome of the appeal for this tax year.

INFLUENCES of the SURROUNDING NEIGHBORHOOD on the PARCEL:

The Legends Development is located at the entrance to Charleston National golf and resort community, which is near the easternmost developed portion of Mount Pleasant. The subject site is considered average to above average for its location. Highway 17 is a mix of neighborhood commercial and single family residential developments, as well as condominium and apartment complexes of various sizes extending from Charleston at the south for several miles northward. A larger regional shopping center (Oakland) is nearly completed as of the effective date, and is located just southwest (less than a mile) of the subject. The immediate local neighborhood along National Drive and Old Course Drive are newer resort/single family residential homes of above average to good condition within a wooded matrix.

IMPACT OF EXTERNAL INFLUENCES ON THE SUBJECT PARCEL:

The subject's location within a wooded matrix, adjacent to the Charleston National golf community, and on the outskirts of the developed portion of Mount Pleasant, is considered a positive influence, providing a marketable appeal for buyers and/or renters of units. However, the location directly adjacent to Highway 17 (separated only by a wooded buffer strip) is a negative influence due to the traffic and associated noise levels. The location of the complex requires travel along the Highway 17 for over 7 miles from Charleston proper. The commercial development along Highway 17 shows typical vacancy, and maintenance of the properties is typical for the area. A positive influence is noted with the new High School planned to be located within a short distance of the subject. Overall, these influences create a slightly negative appeal and marketability of the subject (This is a short term influence, as development stretches in this direction, more development and sense of community and town center will stretch beyond the subject to the northeast).

IMPACT OF CURRENT SITE CHARACTERISTICS:

The site characteristics in general do not limit development or marketability.

HIGHEST AND BEST USE

The Appraisal Institute defines highest and best use as follows:

> "The reasonably probable and legal use of vacant land or an improved property, that is legally permissible, physically possible, appropriately supported, financially feasible, and that results in the highest value."
>
> (ref. The Appraisal of Real Estate, 13th Edition 2008 by The Appraisal Institute page 278)

The definition above applies specifically to the use of the land. It is recognized that in cases where a site has existing improvements on it, the highest and best use may be determined to be different from the existing use. The four essential criteria for evaluating the highest and best use of the land are: legal permissibility, physical possibility, financial feasibility and maximal productivity. These concepts are typically considered in the sequence shown below:

1. Legally permissible uses are considered. The result from such limitations as those imposed by private deed restrictions, zoning, building codes and environmental regulations.

2. Physically possible uses are considered in terms of the site size, shape, land area and topography. Also considered was the availability of public utilities.

3. Financially feasible uses are those uses that meet the conditions imposed by the two previous criteria and which may be expected to produce a positive financial return.

4. Maximally Productive use is that which among the highest financially feasible uses provides the highest rate of return, or value (given a constant rate of return). The use that provides the highest rate of return or value to the land is the highest and best use as if vacant, if the buildings still contribute to the site, the use that provides the overall greatest return or value is the highest and best use as improved.

SUBJECT - HIGHEST AND BEST USE - AS IF VACANT

The subject is located on a 23.22 acre parcel within a residential/golf neighborhood. As such, it is currently unencumbered by any non-conforming existing uses.

In analyzing the above parameters, I find the following with respect to the subject parcel as if vacant:

1. Single Family/Multi-Family/Townhouse/Condominium development is **physically possible**. The land is not limited by physical constraints that would preclude this type of development.

2. Single Family/Multi-Family/Townhouse/Condominium development is **legally possible**. The land is currently zoned PD: Planned Development District. This zone allows single family, multi-family and/or condominium development along Highway 17, as well as mixed uses and types.

3. Multi-Family/Townhouse/Condominium development is **financially feasible**. The location of the property is in a mixed-residential neighborhood and adjacent to surrounding residential development. Whereas the development of attached townhouse style units is the densest development allowable, it would bring the highest profit to the land.

4. It would also be **maximally productive** as developed for residential multi-family or condominium use within the zone.

Therefore, in consideration of the above noted parameters, The Highest and Best Use of the subject parcel AS IF VACANT would be as high density residential as allowed within the PD: Planned Development Zone. A more specific conclusion as to the highest and best use as if vacant would require specific analysis of competing projects with detailed information as to physical characteristics not available and beyond the scope of this assignment.

SUBJECT - HIGHEST AND BEST USE - AS IMPROVED

The subject is a portion of The Legends Condominium Project, which contains 200 units within a residential neighborhood. Though originally an apartment complex, it is currently a condominium complex. Since conversion to a Horizontal Property Regime in mid 2006 through late 2007, 57 units were sold as individual condominium units. Of the remaining 143 units, 121 units were marketed as rental units, and the final 22 units were held for marketing for sale – 1 of which sold in late 2009/early 2010). The consulting assignment problem lies in which use provides the Highest and Best Use "As Improved" for these 121 condominium units as of 12/31/2003 the effective date for the last countywide reassessment

Therefore, the subject is considered to be the remaining 121 condominium units. The breakdown of unit sizes is as follows:

Size	Unit Name	SF/Unit	Total Units	Owned As Of 12/31/07
1 BR	AZALEA	658	20	13
	AZALEA ELONGATED	743	12	10
	DOGWOOD	753	40	33
	MAGNOLIA	836	8	5
2 BR	JASMINE	1030	8	2
	JASMINE ELONGATED	1154	8	1
	JASMINE GARAGE	1050	8	6
	OLEANDER	1176	64	38
	OLEANDER GARAGE	1135	8	1
3 BR	CAMELLIA	1357	16	9
	CAMELLIA GARAGE	1377	8	3
Total			**200**	**121**

In analyzing the Highest and Best Use of the subject "As Improved", I find the following with respect to the subject:

PHYSICALLY POSSIBLE

Multi-Family/Townhouse/Condominium development is **physically possible**. The land and improvements are not limited by physical constraints that would preclude this type of development. The subject parcel is accessed via two residential feeder roadways into the Charleston National golf community, with the subject immediately adjacent to US Highway 17. US Highway 17 is a four-lane divided heavily travelled street which extends throughout the low country. The approximately 23.22 acre parcel extends from US Highway 17 into the community just less than 200'. Two hundred units (121 of which are the subject of this analysis) are located on this parcel, providing a density of 8.73 units per acre, which is typical for townhouse style developments in the area. This interior subject property is irregular to nearly rectangular in shape and of large size for the neighborhood. There is ample frontage on National and Old Course Drives for access and curb cuts into the property.

The typical public services and utilities are readily available, including public sewer access, public water, electric service, etc. The site is generally level. There are minimal (.30 Acres) wetlands on the subject site (These wetlands do not appear to limit utility or development of the overall site). There appears to be adequate drainage. The soils appear capable of supporting low rise construction on spread footings or slab on grade construction as is evidenced by the subject development (no signs were evident of shifting and/or uneven settling of the buildings). The site is free and clear of easements and restrictions except for the typical utility easements. No other physical factors are known that would impede development. Based on the physical layout of the buildings as residential 1 – 3 bedroom units, it is determined that the townhouses are physically possible.

LEGALLY POSSIBLE

Multi-Family/Townhouse/Condominium development is **legally possible**. The land is currently zoned PD: Planned Development District. This zone allows single family, multi-family, condominium, and/or mixed development along US Highway 17. Whereas the improvements are constructed as attached dwelling units, single family utility would require demolition of the current improvements, and redevelopment as single family units on larger individually zoned lots. Based on the current zoning, this would be allowed, however the current configuration of the HPR and individual lots, the rezoning/variance procedure and reconstruction as single family dwellings would not be feasible, nor would it be practical. Therefore, multi-family or condominium development is considered legally possible.

NOTE: The above discussion with respect to "Legal" restrictions is based primarily on zoning and/or government imposed restrictions on the land. In addition, there may be other restrictions placed on the land/development by an individual (deed restrictions, covenants, easements, etc.) which may or may not affect the potential for utilizing the property for a specific use. If there are such restrictions or limitations, our analysis within the following sections will address these and their impact on the existing and/or potential utility of the property.

FINANCIALLY FEASIBLE

Multi-Family/Townhouse/Condominium development is **financially feasible**. The location of the property is in a residential neighborhood and adjacent to surrounding residential development. The feasible uses of a site are determined not only by its physical and legal constraints, but also by current market conditions. As previously noted, a number of uses are physically and legally permissible on the site but not all are practical. Any use that is capable of generating a positive return is considered feasible. Based on the above analysis, multi-family and condominium uses remain the two most feasible and possible uses for the subject lots "As Improved". Therefore, these are the only uses that have passed the initial 2 tests, and are eligible for consideration of financially feasible.

Financial Feasibility addresses which uses of all the allowed uses after the analysis above, would provide a positive return. Since market value is the standard in South Carolina, the highest and best use of the property is the critical issue: i.e. which use produces the highest value is the basis of market value in ad valorem tax purposes. Both are physically feasible, and both are legally possible. Whereas the units exist, there is the question of financial feasibility and maximally productive.

Provided as tests for financial feasibility, and included within this consulting assignment report are two sections (both of which follow this Highest and Best Use summary) entitled "Financial Feasibility Analysis As An Apartment Complex" and "Hypothetical Financial Feasibility As If A Condominium Complex". Within these sections, analysis and conclusions for the test of financial feasibility were completed based on the following steps.

Valuation As An Apartment Complex:

This section references the report prepared by Steve Everman entitled: "An Appraisal/Valuation Analysis of Legends at Mt. Pleasant Apartments" prepared on April 26, 2004 with an effective value date of December 31, 2003. This report included the following steps:

- Research and Analyze the surrounding market for competitive and comparable developments of multi-family/apartments for closed sales and/or rentals.
- Determine comparable sales prices and rental rates from similar multi-family developments.
- Develop a value for the subject complex "As Apartments" as of the effective date of the assignment.
- Determine the value for the entire 200 unit complex.
- Whereas that report valued the entire 200 unit complex, I have calculated the pro-rata share using the same methodology in this report to value the subject 121 units within the complex.

- Finally, I have reduced the value determined for the 121 subject units by 11.94%, which is the reduction that the Board of Assessment Appeals reduced the value of the entire complex after the Board hearing on May 16, 2007 (BAA decision is included within the addenda of this report).

Hypothetical Valuation As If A Condominium Complex:

- Research and Analyze the surrounding market for competitive and comparable condominium developments for closed sales.

- Construct a sellout schedule based on the market assumptions known to be true as of the effective date of the assignment "As If Individual Condominium Units"

Within the Highest and Best Use analysis, the review of the existing improvements, as well as the initial tests for Highest and Best Use (Physically Possible and Legally Permissible) narrowed the potential uses for the subject to multi-family residential (apartments) or individual condominium units. Therefore, the test of Financially Feasible considered only these two potential uses.

Our financially feasible analysis considered a review of the market conditions, the subject improvements, and a hypothetical feasibility study based on the two uses having passed the 1st two tests: As if a multi-family/apartment property, and the sellout of the condominium units within the complex over a period of time, i.e. a discounted cash flow of the sale of the units within the complex. This study of the two uses is utilized for solely this test of Financial Feasibility, not valuation of the condominium units:

> *To value entire condominium projects, whether they are newly constructed buildings or conversions, appraisers typically use the sale comparison approach to establish individual unit prices and apply discounted cash flow analysis to value the whole project. Using the latter technique, the amount and timing of all capital outlays, expected monetary receipts, and returns are estimated, and these amounts are discounted at a rate consistent with competitive investment yields. The estimate of future sellout prices and the timing of sales are key elements in the valuation.*

> *Although similar data may be used in both applications, the valuation of individual condominium units is distinct from the valuation of an entire condominium project. The aggregate of individual unit values does not reflect the market value of the overall project, as the aggregate sum does not reflect carrying or holding costs, marketing expense, or the timing of cash flows. It is improper to represent the sum of the individual unit values as the market value of the entire project. Likewise, individual units are not valued by appraising the entirety and then allocating the total value to individual units. Each assignment has separate and distinct considerations.*
>
> (The Appraisal of Real Estate 13th edition - P. 639

After review of the two sections and analysis noted above (and included in the following sections of this consulting assignment), it has been found that Multi-family and Condominium development are both **financially feasible**. The noted review and analysis of both the rental/multi-family market and the condominium sales market provides a synopsis of the market conditions and feasibility of the subject under both scenarios. The results of our analysis and the resultant determination of financial feasiblity for the alternate uses is as follows:

Subject as a Multi-Family Apartment Complex:	**$ 8,565,000**
Subject as a Condominium Complex (NPV):	**$13,800,000**

The test for financial feasibility leans heavily toward valuing the subject property as individual condominium Units. The test as a condominium project includes both a market rate of return and a large margin for additional profit. The net present value was developed solely to determine the Highest and Best Use. The assessor must now appraise the property according to South Carolina Statutes regarding ad valorem taxation.

MAXIMALLY PRODUCTIVE:

As a result of the first three tests of physical, legal, and financial feasibility, the Highest and Best Use of the subject "As Improved" is summarized by considering that financially feasible use that provides the highest financial return. Therefore, to consider the **maximally productive use** as developed for the remaining units would be to be marketed for sale as condominiums. The maximally productive use of the parcel is the one use from among the feasible uses that returns the most money to the property. **Taking into consideration the physical, legal and feasible uses of the subject site, it is our opinion that the most likely and maximally productive use is as individual condominium units.**

Therefore, in consideration of the above noted parameters, The Highest and Best Use of the subject parcel AS IMPROVED would be as INDIVIDUAL CONDOMINIUM UNITS as allowed within the PD: Planned Development Zone.

Financial Feasibility Analysis As An Apartment Complex

GENERAL COMMENTS AND ASSUMPTIONS

The appraiser was asked to appraise 121 units under this scenario to help determine the highest and best use of the property, and in particular the test of financial feasibility as a rental apartment complex. It is being done as a mathematical feasibility exercise to prove which use is maximally productive.

For purposes of highest and best use analysis only, the 121 of the 200 units in the complex will be appraised as an apartment complex. This will reveal the highest potential value of the units if they were to be bought and sold as an apartment complex.

ANALYSIS OF REPORT: AN APPRAISAL/VALUATION ANALYSIS OF LEGENDS at MT. PLEASANT APARTMENTS

Steve Everman prepared the above noted report in support of testimony for a Charleston County Board of Assessment Appeals hearing on May 16, 2007. A summary of the facts from this report are as follows:

- Effective Date: December 31, 2003
- Report Date: April 26, 2004
- Units Appraised: 200 Units – Entire complex.
- Value via Sales Comparison Approach: $17,000,000
- Value via Income Approach: $16,800,000
- Equity Value: $16,644,000

In this report Mr. Everman considered the use of the Sales and Income Approaches to value. All approaches are generally considered meaningful, but the applicability of each approach will vary with the individual property type. In appraising properties similar to the subject, I believe that the Income Approach was and is the primary method used in estimating value by market participants. Therefore, we have considered this approach in making assumptions and calculations for the 121 subject units.

APARTMENT COMPLEX INCOME:

The subject property is comprised of 121 units within the 200 unit complex appraised by Mr. Everman. The following is a summary of the unit models, the number of units within the subject portion, rents utilized by Mr. Everman in his analysis for each model, and the extended rents apportioned based on each unit model within the subject portion of the complex (See rental income discussion in Mr. Everman's Report pages 39 – 40):

Size	Unit Name	SF/Unit	Total Units	Allocation As Of 12/31/03	Rents As Of 12/31/03	Total Rent/Mo.
1 BR	AZALEA	658	20	13	$685	$8,905
	AZALEA ELONGATED	743	12	10	$685	$6,850
	DOGWOOD	753	40	33	$770	$25,410
	MAGNOLIA	836	8	5	$950	$4,750
2 BR	JASMINE	1030	8	2	$895	$1,790
	JASMINE ELONGATED	1154	8	1	$895	$895
	JASMINE GARAGE	1050	8	6	$1,025	$6,150
	OLEANDER	1176	64	38	$975	$37,050
	OLEANDER GARAGE	1135	8	1	$1,150	$1,150
3 BR	CAMELLIA	1357	16	9	$1,225	$11,025
	CAMELLIA GARAGE	1377	8	3	$1,375	$4,125
Total			**200**	**121**		$108,100
						X 12
				Actual Income:		**$1,297,200**

APARTMENT COMPLEX RECONSTRUCTED INCOME/EXPENSE STATEMENT:

Mr. Everman reconstructed an Income and Expense Statement for the subject property. Though the subject is only 121 units, we have utilized the similar market derived factors for vacancy and collection losses, other income, and expenses. The expense assumptions utilized within Mr. Everman's report are based on a percentage of the income, and this is considered valid for the subject 121 units, as they were for the entire complex. An explanation of the derivation of each category of expenses is summarized in the report (pages 40 – 43).

Below we have reconstructed an operating income and expense statement based on the 121 units of the subject. Finally, we have applied an 11.94% deduction based on the deduction reached by the Board of Assessment Appeals for the subject complex. Since neither the appellant nor the assessor appealed the BAA value determination, it is assumed that the value was acceptable to both parties, and is applied to the valuation of the subject portion as well.

RECONSTRUCTED OPERATING INCOME/EXPENSE STATEMENT: SUBJECT 121 UNITS:

GROSS POTENTIAL INCOME (See Economic & Contract Rent):			**$1,297,200**
Vacancy & Collection Loss (averaged/stabilized):		8.00%	($103,776)
Concessions		4.00%	($51,888)
Other Income		8.00%	$103,776
EFFECTIVE GROSS INCOME:			**$1,193,424**
OPERATING EXPENSES			
A General & Administrative	3.0%	$35,803	
B Utilities (Heat, Common Area Electric, & Vacancy Periods)	1.5%	$17,901	
C Maintenance	5.5%	$65,638	
D Payroll	8.0%	$95,474	
E Management & Commissions	4.3%	$51,317	
F Insurance	4.2%	$50,124	
G Taxes	9.8%	$116,956	
H Reserves for Replacement	2.6%	$31,029	
TOTAL EXPENSES		$464,242	$464,242
Expenses Per Unit	**38.9%**	$3,837	
NET INCOME			**$729,182**
VALUE = Net Operating Income / Capitalization Rate =		$729,182 / 0.0750 =	**$9,722,428**
INDICATED VALUE VIA INCOME CAPITALIZATION APPROACH (Rounded)			**$9,725,000**

Capitalization Rate: 7.50%

BAA Allocated Reduction in Value for the Subject Apartment Complex (11.94%)	**$1,161,165**
BAA Calculated Value for the Subject Apartment Complex	**$8,563,835**
INDICATED VALUE OF 121 UNIT APARTMENT COMPLEX AS OF DECEMBER 31, 2003:	**$8,565,000**

FINANCIAL FEASIBILITY: "AS APARTMENTS"

The Income Approach recognizes the value of the subject property based on its cash flow potential or the anticipation of future benefits, specifically net or gross income. It is basic to this analysis of future benefits that the appraiser projects the future operating income and expenses. Personal property was not included in the valuation process, as minimal personal property exists in apartment complexes.

The Financial Feasibility estimate by the Income Approach was $8,565,000.

Many investors in the subject market area use this approach to guide them in making decisions on the purchase of similar properties. The income approach relies on the premise that properties with comparable risk and return features will provide comparable future benefits. This approach is most reliable when adequate documentation exists on comparable market rental rates, property operating expenses and risk/return requirements.

Considering all of the information and analysis:

The estimate of Financial Feasibility, as of December 31, 2003, "AS APARTMENTS" is $8,565,000.

Hypothetical Financial Feasibility Analysis

"As If A Condominium Complex"

COMPARABLE/COMPETITIVE CONDOMINIUM PROJECTS – SALES

Several projects in Mt. Pleasant were identified and researched for similarities and differences based on size, unit type, condition, location, amenities, and market appeal. Our research revealed several comparable projects in the local market having similarities to The Legends units:

Complex	Age	Units	Condition	Unit Mix	Location	Amenities
Cambridge Lakes	2000	104	Above Avg.	2,3 BR	526 & 17	Yes
Ellington Woods	1999	224	Above Avg.	1,2,3 BR	Park West	Shared
Montclair	1992	240	Average	2,3 BR	Town Ctr	Yes
Planters Place	1984	59	Average	2,3 BR	Anna Knapp	Yes
Snee Farm Lakes	1982	76	Average	2,3 BR	Long Point	Shared
Daniels Landing (Daniel Isl.)	1998	300	Above Avg.	1,2,3 BR	Daniel Island	Yes
Subject:						
Legends	**2000**	**121**	**Above Avg.**	**1,2,3 BR**	**NE of 41**	**Yes**

All of the complexes are single story style units, with a mix of 1, 2, & 3 bedroom units. Other complexes were considered in our research, however only these were considered reasonably similar and were easily compared and contrasted to the subject as of the effective date. Three are most similar in age to the subject. Our research is summarized in the spreadsheet which follows for the period from 2000 - 2005. The six complexes had enough sales during the period to determine a range of value for each bedroom unit: a per unit value and a per square foot value. As can be seen by the data, there were ample units available for our analysis.

Regime	Year	1BR Number of Sales	1BR Average Price	1BR Square Footage	1BR Price Per Sq. Ft.	2BR Number of Sales	2BR Average Price	2BR Square Footage	2BR Price Per Sq. Ft.	3BR Number of Sales	3BR Average Price	3BR Square Footage	3BR Price Per Sq. Ft.
Cambridge Lakes	2000												
Age - 2000/Converted - 2003	2001												
Size - 104	2002												
Location - SE of 526	2003					39	$130,662	1,196	$109	44	$137,004	1,513	$91
Condition - Above Average	2004					14	$138,486	1,188	$117	11	$182,607	1,340	$121
Amenities - Pool/Clubhouse	2005					16	$186,513	1,189	$159	10	$208,240	1,340	$155
Ellington Woods	2000					33	$141,630	1,541	$91	20	$148,693	1,582	$94
Age - 1999/Converted - Immediate	2001					38	$143,328	1,554	$92	13	$143,831	1,547	$92
Size - 224	2002					24	$144,691	1,566	$92	17	$146,386	1,577	$93
Location - NW of 526	2003	1	$148,900	1,633	$91	46	$147,802	1,564	$94	27	$153,826	1,580	$97
Condition - Above Average	2004					32	$180,706	1,579	$102	18	$179,822	1,618	$106
Amenities - Pool/Clubhouse	2005					22	$204,700	1,559	$131	14	$200,789	1,491	$135
Montclair	2000												
Age - 1992/Converted - 2003 late	2001												
Size - 240	2002												
Location - Across from Town Center	2003					18	$124,731	1,144	$109	8	$122,148	1,223	$100
Condition - Average	2004					97	$120,778	1,072	$113	44	$132,733	1,261	$105
Amenities - Pool/Clubhouse	2005					71	$153,220	1,084	$141	23	$179,844	1,276	$141
Planter's Place	2000												
Age - 1984/Converted 2001	2001					3	$113,633	1,125	$101	2	$123,325	1,300	$95
Size - 59	2002					4	$119,288	1,125	$106	1	$137,250	1,300	$106
Location - S of 17; W of 526	2003					4	$128,225	1,125	$114	1	$131,500	1,300	$101
Condition - Average	2004					3	$127,667	1,143	$112	2	$151,950	1,425	$107
Amenities - Pool/Clubhouse	2005					2	$139,438	1,125	$124	3	$174,333	1,308	$133
Snee Farm Lakes	2000					13	$122,108	1,297	$94	4	$133,125	1,596	$83
Age - 1982/Converted - 1993	2001					10	$111,830	1,300	$86	6	$134,100	1,584	$85
Size - 76	2002					12	$118,804	1,347	$88	3	$134,667	1,473	$91
Location - E of 526/Long Point Rd.	2003					12	$125,342	1,319	$95	8	$135,750	1,584	$86
Condition - Average	2004					16	$140,644	1,291	$109	6	$167,483	1,766	$108
Amenities - Yes	2005					16	$171,911	1,296	$132	7	$208,414	1,597	$129
Daniel Landing, Daniel Island	2000												
Age - 1996/Converted - 2003	2001												
Size - 300	2002												
Location - Daniel Island	2003	133	$122,769	744	$165	58	$183,124	1,103	$166	6	$247,950	1,440	$172
Condition - Above Average	2004	33	$143,658	761	$189	62	$207,899	1,229	$169	37	$242,310	1,440	$168
Amenities - Pool/Put Grl/Clubhouse	2005	35	$178,046	760	$235	24	$262,394	1,208	$217	8	$324,453	1,440	$225
All Comparables	2000					40	$136,328	1,486	$91.73	24	$146,016	1,585	$92.13
	2001					61	$135,399	1,481	$91.44	20	$139,348	1,548	$90.20
	2002					40	$133,484	1,456	$91.70	21	$142,548	1,549	$92.20
	2003	134	$122,969	762	$163.44	174	$154,963	1,232	$120.78	59	$148,606	1,615	$96.11
	2004	33	$143,656	761	$188.70	204	$180,089	1,183	$128.82	118	$178,786	1,407	$127.05
	2005	35	$178,046	760	$234.78	163	$183,489	1,206	$161.84	63	$208,394	1,387	$148.13

A review and analysis found the following with respect to the above noted sales:

1. All of the six comparables were converted from apartments to horizontal property regimes in the years as noted above (except Ellington Woods originally built as condos). At the point of the conversions, most of the regimes showed strong sales in the immediate years following conversion, with a steady sales volume for each regime after 2-3 years.

2. Montclair converted in late 2003, with 21 closed sales prior to the end of the year, remarkable considering that sales volume at the end of most years is typically light.

3. The market shows a good volume of sales within the 3-year period prior to the effective date of this report, followed by a significant increase in sales of all units in 2004 - 2005. In 2003 Cambridge Lakes sold 83 units out of 104. In 2003, Daniel Landing sold 197 units of 300. Ellington Woods sold 73 of 224 units. All are similar in age to the Legends. The remainder are older complexes.

4. Sales of all unit sizes were steady through the period, with each year showing a slight overall increase in pricing from the previous year. Without knowing all the circumstances surrounding each sale, it is possible to surmise that price is a very strong indicator of marketability for these units – i.e. price drives this market as noted in the market analysis.

5. Demand for 2 BR and 3 BR units is strong through the period, with unit prices higher in each successive year, and per square foot price increasing slightly as noted above, with minimal, if any of the expected economies of scale in the per square foot costs (larger units did not show a smaller per square foot and per bedroom cost).

Additional review of the comparable developments indicates that the Daniel Landing complex had very strong sales during the period of conversion, even though it was priced at or above the prevailing market range for the adjacent Mt. Pleasant neighborhood. The six competing developments indicate a 2003 market in the following range of values:

	Sales Price	Price/SF
One-Bedroom Units	$122,769 - $148,300	$ 91 - $165
Two-Bedroom Units	$124,731 - $193,124	$ 94 - $166
Three-Bedroom Units	$122,146 - $247,950	$ 86 - $172

This financial feasibility analysis is a "hypothetical condition" wherein the Legends had not yet been modified as a legal Horizontal Property Regime, therefore there were no sales of any of the subject units. However, as referenced in the earlier parts of the consulting report, the valuation of the individual units was completed by Ms. Sawadske, and these reports and valuations for each unit type as of the effective date of December 31, 2003 are referenced herein and utilized as typical potential sales values for the subject. The assessor must appraise the properties in light of SC statutes 12-43-215 and 12-37-90 (C) & (D) and other statutes governing ad valorem taxation.

COMPARABLE/COMPETITIVE CONDOMINIUM PROJECTS – RENTALS

The subject is located in one of the fastest growing areas in Mount Pleasant. It is convenient to golf courses, the beaches, the high school, and shopping. As noted above, it is located on the outskirts of the developed portions of the township at the northeastern end of the commercial Route 17 corridor.

An extensive rental analysis was completed by Mr. Everman in his report (pages39-40), and is referenced and incorporated herein. As noted in the prior section "Valuation As An Apartment Complex", the rentals for the units were provided. Based on this data, and the distribution of the individual unit models within the subject, we have determined the rentals for the subject to be as follows:

The subject and rent comparables are located in Mt. Pleasant and would compete for the same renters. A comparison of competing properties monthly rents by bedroom count shows the following:

Bedroom Number	Avg. Subject Rents	Hypothetical Rents
One bedroom unit	$ 753	$ 700
Two bedroom unit	$ 980	$ 850
Three bedroom unit	$1,263	$1,100

Rents for the subject units were considered to be at the mid to upper end of the market range compared to rents for surrounding properties. The market had seen several complexes convert during 2003, and some over the preceding few years, resulting in a higher demand for apartments. At the same time as a result of the uncertainty of the status of the complex (conversion to condos – potential sale of their unit) potential renters would have been hesitant to rent in a property with limited renewal opportunities. As a result, the owner may have been forced to charge lower rents than competing complexes. For the purpose of this appraisal the hypothetical rents will be used, which reflect the lower range of the comparable market rents for the subject.

PROPOSED SELLOUT SCHEDULE FOR THE LEGENDS

It is typical for a developer or owner of a multi-unit development, whether a subdivision of new homes, a new multi-family development, or a condominium complex to base their financial feasibility of the development, and/or the purchase, on the cash flow of sales or rental of the units over time, anticipating the market for the subject units. I was unable to obtain any pro-forma sellout schedules for the subject from the initial purchase and/or conversion to a Horizontal Property Regime. Therefore, based on the assumptions noted above for sales and rental pricing, marketing, and the economic conditions as of the effective date of the report, I have prepared a discounted cash flow of the sellout of the units to determine the feasibility of the development.

The sellout period is based on knowledge of the market known as of the effective date (12/31/2003), without the knowledge of the market conditions that occurred subsequent to that date. (Note – though I have extensive market data showing trends at the end of 2003 forward, as of 12/31/2003, I did not have this information.) As noted in the market analysis, the Mt. Pleasant condo market remained strong through 2004 into 2005. Except for the flood of conversion units in the area, sales were relatively constant from 2002 – 2008. Volume of sales, as well as prices were steady.

Our sellout period is based on several assumptions as noted earlier:

- As most participants in the market realized, the market was strong, and a sellout would be expected to occur relatively quickly. Some new developments and conversions sold-out, or contracted a majority of units within days and weeks during this market. Adequately "market priced" units would tend to sellout in a very quick period of time.

- The sellout pricing (competitive market pricing) of units was based on the market value of the units as of 12/31/2003. Though the market information following the effective date of value indicates a price increase would have been warranted, we did not increase or decrease the proposed sales prices in the following years.

- The volume of sales anticipated is based on competitive market pricing. As noted earlier, during this period there was a moratorium on construction/building in Mt. Pleasant implemented a few years prior to the effective date, and continuing until after the anticipated sellout period. This moratorium created an artificial environment, allowing conversions to flood the market with available condominiums with minimal new construction competition. This environment created a strong market for conversion unit sales, and higher pricing during a strong sales period.

- Anticipating that not all units would necessarily sell immediately, it would have been prudent to rent most of the units in the regime, holding vacant a percentage of the units for updating/renovating to be marketed for sale. As a result, the overall vacancy would have been high as compared with a typical rental development. Corresponding to this assumption, rents of the units would be anticipated to be low as a result of the difficulty in renting units without the certainty for a tenant to have the ability to remain long term in a unit that might be sold in 1-3 years.

- As a result of our market analysis, I conservatively anticipated all the subject units would be sold within 3 years. Absorption at that time might well have been much more rapid.

A discounted cash flow analysis valuation is a method of valuation when a projected stream of net income over a specific period of time is discounted at a rate commensurate with market conditions and trends to reflect the present worth/value of the net income stream. To the discounted value of the income stream a reversion value of the real estate also discounted to reflect its present worth must be added. When added together a total property value (present worth) as discounted is indicated. When utilized correctly assuming all assumption/projections are realistic, this valuation methodology is considered reliable.

The main objective in any discounted cash flow analysis is to ascertain/estimate the annual total net operating income attributed to a specific investment property. Categories that are estimated and calculated are total potential gross income, yearly vacancy and collection loss allowance, and applicable expenses to accurately maintain the property which-when deducted from the potential gross income reveals the total net income attributed to the property. Each year of the projected future net income is discounted to reflect its present worth. A reversionary value of the real estate, assuming a sale of the property at the end of the income projection, is calculated via an estimated final year net operating income stream which is the end of the projection period capitalized via an overall rate (Ro) then discounted via the last year reversion factor.

DISCOUNT RATE SELECTION

A discount rate is selected in conformity with accepted rates of return for investors who are seeking this type of investment property. Any discount rate is typically considered higher than the safe interest rate or insured money markets, and is also higher than typical overall rates for less risk oriented types of real estate investments. The discount rate is considered the annual rate of investment return or yield required to attract equity capital to a particular real estate investment.

The procedure to select an appropriate discount rate which is to be applied to the projected cash flows and property reversion is to consider the following market rates as of the date of this appraisal report which includes the Federal Funds Rate, Municipal Bonds, Corporate Bonds (Aaa), Corporate Bonds (Baa), Long Term Treasury Securities, 5 Year Treasury Securities, Prime Rate. The Federal Funds rate is considered the fundamental rate reflecting the cost of money to lenders and other financial institutions. The previous investment bonds listed are indicative of other long term financial investments that are considered competitive for potential investors capital/dollars as compared with investing in real estate. Consequently the less than liquid nature of real estate investments necessitates a higher rate of return/premium over these other competitive forms of investment.

As of late 2003, mortgage rates were at 30 year lows (around 5.82% average), and Corporate Bonds (Baa) rates were around 6.76%. As noted in the Apartment valuation referenced earlier, a cap rate of around 7.5% for an apartment complex was considered appropriate given the market forces of the area, time, and type of investment. The subject property is a unique real estate backed investment asset. Historically, the asset was an apartment complex with a stabilized cash flow, and determining a discount rate based on apartment data and is typically considered a relatively low risk real estate venture. At the point of conversion, the property **had the added component of "liquidation" of the** asset over a period of time (DCF) to a point of the entire investment being liquidated into all cash (i.e. full sellout).

Selecting a discount rate for this type of investment is based on the overall risk, the sellout schedule, and the nature of the cash flow both in the short term and long term during the sellout period. In review of all applicable financial indicators from both the market as noted above, as well as discounted rates for other conversions, and all residential unit sales (including condos) ranging from 9% to 12.50%. Assuming a cap rate of approximately 7.5% as noted above, I have utilized a **discount rate of 9.5%** for the subject property, which is considered a typical investors overall yield requirement on this type of investment property under prevailing economic conditions, trends and projections and with an average quality tenant. It also appears that the units have enjoyed an overall good occupancy history over the previous few years. An **end/terminal capitalization rate** - which would typically be used to estimate the residual property value – is not applicable since the entire project would have been sold (liquidated) by the end date of the DCF period.

NOTES TO SCHEDULE OF PROSPECTIVE CASH FLOW

Potential Gross Revenue:

The Potential Gross Revenue reflects the income for a 3-year period beginning in 2004 until all units are sold. Our grid includes data derived during 2003, which is not included in the DCF calculations, but included as a reference point of beginning of actual and market rental and expenses during this period. Projected sales through the ensuing years are included until the project is sold out. Sales prices are based on market pricing as determined above from the comparables from 2003. Though the market would indicate an increase in prices over the sellout period, I have held the sales prices constant over the sellout period. These prices were based on a weighted average appraised value as of December 31, 2003 (extracted from the URAR reports completed by Ms. Sawadske and incorporated herein by reference).

Base Rental Revenues included in the revenue stream were based on the actual rental rates from 2003. This income would be from a portion of the units remaining as leased for a period prior to vacating the units for preparation for sale. In this case, I have assumed that an equivalent number of units estimated to be sold in the ensuing year would be vacated, with no rent for 50% of those units during the entire sales year to follow. This is conservative as it is most likely that those units would be taken off line gradually during the course of the year.

The Vacancies during each year are anticipated vacancy of the rental units only (not sales). The vacancies are expected to be extremely high (approximately 20%), as both forced vacating of units to sell, and the anticipation by tenants that they would have to move out would force renters to other units at a greater rate than typical for the period. (NOTE: This vacancy is greater than that for a typical apartment complex, as units are vacated for renovations and marketing for sale, both of which are not typical for an established apartment complex).

A Collection Loss has been considered, at 3% for rental units only.

The Effective Gross Income reflects a relatively modest sellout rate for the period, based on the projected 3 year sellout, which would be typical for this type of property during this time frame.

Operating Expenses

The Operating Expenses are projected costs to be incurred by the owner/landlord as either a percentage of income, or an estimate of the particular expense per unit owned. These expenses would typically decline over time as the units are sold, and no longer paid by the owner/landlord of the units. Most of these expenses are typically attributed to the rental portion of the complex, which is diminished as units are sold.

The developer/subject owner is a majority owner of units within the development, and as such is currently in control of the Home Owner's Association. It is assumed that the developer would pay regime fees (Home Owners Association dues) for each unsold unit, and all typical Regime expenses paid by the HOA would not be paid by the developer, but by the HOA as a separate entity. Whereas the developer set up the HOA dues structure at the time of conversion, it is assumed that the fees are adequate to cover all of the typical costs/expenses incurred by the HOA (i.e. common area maintenance, utilities, amenities maintenance, etc.). The developer/owner of the subject properties would be responsible for each unit's real estate expenses, HOA dues, liability insurance, interior maintenance, and management and other miscellaneous expenses as rental units until taken offline for sale.

Real Estate Taxes and Insurance Expense. As referenced, the projected lease agreements are based on a net arrangement where the landlord pays the Real Estate Taxes and Insurance. Taxes are estimated for the developer owned units, as is insurance (liability) on those owned units. Renters insurance would be the responsibility of the tenant. These costs would decrease as units are sold.

Maintenance and Management is estimated for the rental/tenant occupied units, and decreases as the units are sold. The total fee is considered adequate for management and maintenance of the complex prior to sale of all the units based on the condition and age of the buildings.

Garbage would typically be paid through the HOA dues for all units. This fee is not included on the DCF. Similarly, Reserves for Replacement and Structural and Exterior Maintenance would be paid through the HOA dues, and not included in the DCF as a separate line item.

Net Operating Income

The Sales and Marketing costs are projected costs to be incurred by the owner/landlord as an expense of marketing the properties for sale, including:

- Sales Commissions (3.0%): Though the management expenses would include typical seller commissions, this additional average expense would account for any outside MLS sales commissions to buyer's agents.
- Marketing Costs (.5%): Advertising, MLS fees, billboards, flyers, etc. for sales.
- Unit Improvement Allowance ($1,500 per unit): Though the units are in average to above average condition, some upgrading of flooring, counters, paint, etc. would be expected to sell the units. Additional costs for upgrading of the units would be an additional cost to the buyer as upgrade packages (not included in this analysis).

The Net Operating Income is the result of deducting all expenses from the effective gross income. From the net operating income is subtracted those sales, marketing, and capital costs to attract additional tenants and future owners. Whereas the subject property would have management/sales/leasing staff, many of the management and leasing costs were included within the line item for management staff.

The Marketing and Sales Commissions and Unit Improvement Costs are directly related to the number of sales during the period, while the exterior Repairs and Maintenance Expenses are held constant throughout the period.

CASH FLOW

The resulting Cash Flow is a true indication of Net Operating Income for the property each year.

DISCOUNT RATE/ANNUAL FACTOR

The discount rate, as noted above, is utilized to determine the net present value of each of the annual cash flows. The Annual Factor is a simplified summary of the discount applied to each of the annual cash flows (combination of several factors such as discount rate, years, etc.) to present all of the cash flows in the base year (effective date) value.

PROPOSED SCHEDULE OF SALES & RENTAL OF UNITS AS OF 12/31/2003

		Year 0 End 12/03		Year 1 End 12/04		Year 2 End 12/05		Year 3 End 12/06	
POTENTIAL GROSS REVENUE									
UNIT SALES	Price/	Units	Sales Income	Units	Income by	Units	Income by	Units	Income by
Sales of Condo Units	Unit	Sold	By Model	Sold	Model	Sold	Model	Sold	Model
1 BR Units Sold	$122,959	0	$0	24	$2,951,016	24	$2,951,016	13	$1,598,467
2 BR Units Sold	$154,869	0	$0	24	$3,716,856	12	$1,858,428	12	$1,858,428
3 BR Units Sold	$148,606	0	$0	4	$594,424	4	$594,424	4	$594,424
Units Sold & Potential Sales Income		0	$0	52	$7,262,296	40	$5,403,868	29	$4,051,319
UNIT RENTALS	Rent	Units	Rent Income	Units	Rent Income	Units	Rent Income	Units	Rent Income
Rental of Condo Units	Month	Rented	By Model	Rented	By Model	Rented	By Model	Rented	By Model
1 BR Units Rented - (Total - Previously Sold - 50% To Be Sold)	$700	49	$411,600	25	$210,000	7	$54,600	0	$0
2 BR Units Rented - (Total - Previously Sold - 50% To Be Sold)	$850	36	$367,200	18	$183,600	6	$61,200	0	$0
3 BR Units Rented - (Total - Previously Sold - 50% To Be Sold)	$1,100	10	$132,000	6	$79,200	2	$26,400	0	$0
Units Rented & Potential Rental Income		95	$910,800	49	$472,800	15	$142,200	0	$0
General Vacancy (Percentage of Rental Income)		20%	$182,160	20%	$94,560	20%	$28,440	20%	$0
Collection Loss (Percentage of Rental Income)		3%	$27,324	3%	$14,184	3%	$4,266	3%	$0
TOTAL POTENTIAL RENTAL INCOME			$701,316		$364,056		$109,494		$0
EFFECTIVE GROSS REVENUE			$701,316		$7,626,352		$5,513,362		$4,051,319
EXPENSES									
OPERATING EXPENSES	Cost/								
(Based on Remaining Unsold Units)	Unit								
Real Estate Taxes									
1 Bedroom Units	$1,269		$62,181		$31,725		$8,249		$0
2 Bedroom Units	$2,022		$72,792		$36,396		$12,132		$0
3 Bedroom Units	$2,305		$23,050		$13,830		$4,610		$0
Homeowners Association Dues									
1 BR Units - (Regime Fees = $124)/Mo	$1,488		$72,912		$37,200		$9,672		$0
2 BR Units - (Regime Fees = $190)/Mo	$2,280		$82,080		$41,040		$13,680		$0
3 BR Units - (Regime Fees = $245)/Mo	$2,940		$29,400		$17,640		$5,880		$0
Insurance (Liability as owner) (1BR-$300; 2BR-$420; 3BR-$540)	Varies		$35,220		$18,300		$5,550		$0
Maintenance & Management (Interior)	$500		$60,500		$34,500		$14,500		$0
Replacement Reserves (Interior/Appliances)	$150		$18,150		$10,350		$4,350		$0
Miscellaneous (Rental Units)	$75		$9,075		$5,175		$2,175		$0
TOTAL OPERATING EXPENSES			$465,360		$246,156		$80,798		$0
SALES/MARKETING & CAPITAL COSTS	Expense/								
(Based on Sold Units)	Unit								
Sales Commissions (Upon Sale)	3.00%		$0		$217,869		$162,116		$121,540
Marketing Costs - Allowance (Marketed Units)	0.50%		$36,311		$27,019		$20,257		$0
Unit Improvement Allowance (Marketed Units)	$1,500		$78,000		$60,000		$43,500		$0
Structural Repairs/Maintenance (HOA Responsibility)	$0		$0		$0		$0		$0
TOTAL SALES & CAPITAL COSTS			$114,311		$304,888		$225,873		$121,540
TOTAL EXPENSES			$579,671		$551,044		$306,670		$121,540
CASH FLOW OF SELLOUT (Before Debt Service & Income Tax)			$121,645		$7,075,308		$5,206,692		$3,929,779
DISCOUNT RATE/ANNUAL FACTOR	9.5%		1.0000		0.9132		0.8340		0.7617
NET PRESENT VALUE OF INCOME			$121,645		$6,461,468		$4,342,438		$2,993,132

DISCOUNTING OF CASH FLOW

This Cash Flow is then discounted at a rate commensurate with current and projected market conditions. Currently it is our opinion that an appropriate discount rate is 9.5%. A present worth based on this discount is considered typical and consistent with current market conditions, current contractual lease agreements, and this type of multi-family/condominium investment property.

2003 DISCOUNTED CASH FLOW (121 Units)

Analysis Period		Year Ending	Annual Cash Flow	PV of Cash Flow @ 9.50%
Base Year	0	12/31/2003	$121,645	$121,645
Year	1	12/31/2004	$7,075,308	$6,461,468
Year	2	12/31/2005	$5,206,692	$4,342,438
Year	3	12/31/2006	$3,929,779	$2,993,132
Total Cash Flow - 3 years ('04 - '06)			$16,211,779	$13,797,038
12/31/2003 DISCOUNTED CASH FLOW (121 Subject Units)				**$13,800,000**

The discounted value of all the years of income is added together to reflect the aggregate present worth of the projected income stream AS OF 12/31/2003 for typical 1, 2, & 3 bedroom units. The value of each type of unit – 1, 2, & 3 bedroom units – is extracted from the total, resulting in the following values. Finally, since the subject is only 121 Units, I have multiplied the unit breakdown (within the 121 units) to arrive at the Net Present Value for the 121 units:

1 Bedroom		2 Bedroom		3 Bedroom	
% Total Sale Price	Total Value/ Unit	% Total Sale Price	Total Value/ Unit	% Total Sale Price	Total Value/ Unit
0%	$0	0%	$0	0%	$0
41%	$2,625,602	51%	$3,306,991	8%	$528,876
55%	$2,371,376	34%	$1,493,395	11%	$477,667
39%	$1,180,954	46%	$1,373,014	15%	$439,163

	$6,177,932		$6,173,400		$1,445,706
1 Bedroom		2 Bedroom		3 Bedroom	
PV/UNIT	$101,278	PV/UNIT	$128,613	PV/UNIT	$120,475

1 BR Units	Total Value	2 BR Units	Total Value	3 BR Units	Total Value
61	$6,177,932	48	$6,173,400	12	$1,445,706

12/31/2003 Net Present Value of All 121 Units	**$13,797,038**

Rounded: = **$13,800,000**

NOTE: The discounted cash flow is the discounted value of the sale of the remaining units over time, not the actual price sold. The market value of the units is represented by prospective buyers in the marketplace for individual units as determined by valuing the individual units (see following).

MARKETING TIME

In the estimation of a reasonable marketing time for the subject property, the appraiser has relied on interpretive opinions set for forth by the Appraisal Standards Board of the Appraisal Foundation. The following interpretation was approved by the Appraisal Foundation, on September 16, 1992.

> "The reasonable marketing time is an estimate of the amount of time it might take to sell a property interest in real estate at the estimated market value level during the period immediately after the effective date of the appraisal. Marketing time differs from exposure time, which is always presumed to precede the effective date of the appraisal."

The estimate of marketing time may be expressed as a range and can be based on one or more of the following:

- Statistical information about days on the market
- Information gathered through sales verification
- Interviews of market participants; and
- Anticipated changes in market conditions

Certain properties exposed on the market for extended periods of time may have been listed at prices which were unrealistic. Similarly, properties which are exposed at reasonable prices may have shorter marketing periods. Therefore, estimates based on comparable sales may or may not provide a good estimate of the subject marketing time depending on the original asking price and/or subsequent price reduction necessary to consummate the sales.

Therefore, if the subject is listed at a level which is consistent with, or slightly above, the expected sales price (market value), then the marketing time would be expected to be at the lower end of the range indicated through sales or from knowledgeable professionals in the market. This premise assumes supply and demand are in balance.

The marketing time, forecasted into the future, of a property such as the subject could range from months to six months year depending on the circumstances of the seller and prospective buyers. This considers the historical exposure time of several other comparable properties in this market area with 3-5 years sellout respectively. Given the supply on the market on the effective date, the appropriate marketing period for the subject property is up to 48 months as a sellout period.

HIGHEST AND BEST USE: SUMMARY AND CONCLUSIONS:

As a consulting assignment, we were asked to review the Highest and Best Use of the subject parcel in order to determine the maximally productive use of the subject property as of the effective date. Our review, analysis, and conclusions of all potential uses of the property, As Improved, as of the effective date.

Within the Highest and Best Use analysis, the review of the existing improvements, as well as the initial tests for Highest and Best Use (Physically Possible and Legally Permissible) narrowed the potential uses for the subject to multi-family residential (apartments) or individual condominium units. Therefore, the test of Financially Feasible considered only these two potential uses.

Our financially feasible analysis considered a review of the market conditions, the subject improvements, and a hypothetical financial feasibility study of those uses that passed the 1st two tests: As if a multi-family/apartment property, and the sellout of the units within the complex over a period of time, i.e. a discounted cash flow of the sale of the units within the complex:

> *To value entire condominium projects, whether they are newly constructed buildings or conversions, appraisers typically use the sale comparison approach to establish individual unit prices and apply discounted cash flow analysis to value the whole project. Using the latter technique, the amount and timing of all capital outlays, expected monetary receipts, and returns are estimated, and these amounts are discounted at a rate consistent with competitive investment yields. The estimate of future sellout prices and the timing of sales are key elements in the valuation.*
>
> *Although similar data may be used in both applications, the valuation of individual condominium units is distinct from the valuation of an entire condominium project. The aggregate of individual unit values does not reflect the market value of the overall project, as the aggregate sum does not reflect carrying or holding costs, marketing expense, or the timing of cash flows. It is improper to represent the sum of the individual unit values as the market value of the entire project. Likewise, individual units are not valued by appraising the entirety and then allocating the total value to individual units. Each assignment has separate and distinct considerations.*
>
> (The Appraisal of Real Estate 13th edition - P. 639

The results of our analysis and the resultant conclusion of values indicated that both uses are financially feasible:

- **Feasibility of Apartment Use:** **$ 8,565,000**
- **Feasibility of Condominium Use:** **$13,800,000**

The Highest and Best Use for the subject property is then based on that use which is Maximally Productive. The results of the Financial Feasibility test indicated that condo sales provides the greatest return of value to the land as a condominium complex.

Therefore, the Highest and Best Use of the subject property is as INDIVIDUAL CONDOMINIUM UNITS.

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PENGAD 800-631-6989 PETITIONER'S EXHIBIT 8

VALUATION OF SUBJECT: 121 INDIVIDUAL CONDOMINIUM UNITS

Whereas our study and analysis of the Highest and Best Use of the subject property determined that the Maximally Productive use of the subject is as individual condominium units, the subject property was then valued as individual units as per typical appraisal practices for separate and individual properties, and per South Carolina statutes governing ad valorem taxation.

As referenced earlier, and quoted above, individual "typical" condominium units were appraised utilizing the standard URAR forms for valuing a single condominium unit. Angela Sawadske (Charleston County Assessor's Office) prepared such an appraisal for each typical 1, 2, & 3 bedroom unit, arriving at the Market Value for each unit. A summary of the values arrived at through this method is shown in the following grid:

Unit Size	Model Name	Owned as of 12/31/2003	Market Value As Of 12/31/2003
One Bedroom	AZALEA	13	$105,000
	AZALEA ELONGATED	10	$107,000
	DOGWOOD	33	$110,000
	MAGNOLIA	5	$134,000
Two Bedroom	JASMINE	2	$148,000
	JASMINE ELONGATED	1	$156,000
	JASMINE GARAGE	6	$170,000
	OLEANDER	38	$157,000
	OLEANDER GARAGE	1	$175,000
Three Bedroom	CAMELLIA	9	$170,000
	CAMELLIA GARAGE	3	$192,000
Total		**121**	

PETITIONER'S EXHIBIT 9
PENGAD 800-631-6989

VALUATION OF SUBJECT: 121 INDIVIDUAL CONDOMINIUM UNITS

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Three Bedroom	CAMELLIA	9	$170,000
	CAMELLIA GARAGE	3	$192,000
Total		**121**	

ASSUMPTIONS AND LIMITING CONDITIONS

The appraiser's certification that appears in the consulting and appraisal report is subject to the following conditions:

1. Unless addressed in the consulting assignment, the condition of subject property is assumed to be the same on the effective date of the appraisal as on the date the property was visited for this report.

2. This Consulting Report is intended to comply with the reporting requirement set forth under the Uniform Standards of Professional Appraisal Practice. The depth of discussion contained in the report is sufficient for the intended use stated in the report and the user(s) indicated in the report.

3. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. No responsibility is assumed for legal descriptions.

4. Responsible ownership and/or management of the property are assumed.

5. The property is appraised free and clear of any and all liens or encumbrances unless otherwise stated.

6. If the appraiser has provided a sketch in the consulting report, it is intended to show approximate dimensions of the improvements and is included only to assist the reader of the report in visualizing the property and understanding the appraiser's estimation of its size. Maps and exhibits are included the assist the reader in visualizing the property, neighborhood, etc. and are for reader reference only.

7. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

8. It is assumed that all applicable zoning and other use regulations and restrictions have been complied with, unless otherwise stated in this report.

9. It is assumed that all required licenses, certificates of occupancy, consents or other legislative or administrative authority has been or can be obtained and/or renewed for any use on which the value estimate contained in this report is based.

10. The appraiser has noted in the report any adverse conditions (such as needed repairs, deferred maintenance, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, subsoil or structure that render it more or less valuable.

11. The appraiser is not aware of adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable. The appraiser has assumed that there are such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations unless non-compliance is stated, defined and considered in the report.

12. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

13. The appraiser has referenced documents prepared by others. The credibility and knowledge of these appraisers is considered to be reliable. Their work is referenced within the document, but they did not have any significant role in the preparation of the consulting assignment or completion of the report.

14. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

15. If the appraiser has based his or her highest and best use or valuation conclusion as expressed in this report on satisfactory completion of repairs and/or alterations, the appraiser assumes that the repair/alterations will be performed in a workmanlike manner.

16. This appraisal report should only be distributed in its entirety. To take pages or portions out of context would be misleading. In addition, the work of others is referenced herein. To distribute this report without the inclusion of the other reports is prohibited and would be misleading to the reader and/or user of the report.

17. In 1992, the Americans with Disabilities Act was passed which provided for a discrimination free environment for citizens with special needs with respect to access and use of property. I have not made a judgment nor am I qualified in the determination of the requirements or rules governing this property which may or may not be in compliance with respect to this legislative act.

CERTIFICATION – Gary N. James

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and
- I have no personal interest or bias with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this consulting assignment.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation.
- I, Gary James, made a personal visit to the property that is the subject of this report.
- The appraiser has performed within the context of the competency provision of the Uniform Standards of Professional Appraisal Practice.
- No one provided significant professional assistance to the person(s) signing this report. I have referenced documents prepared by others within this consulting report. The credibility and knowledge of these appraisers is considered to be reliable. Their work is referenced within the document, but they did not have any significant role in the preparation of the consulting assignment or completion of the report.
- I currently hold the appropriate state certification allowing the performance of real estate appraisals in connection with federally related transactions in the state in which the subject property is located.

APPRAISER: Gary N. James

SIGNATURE: _____ DATE SIGNED: August 6, 2010

TITLE: Litigation Commercial Appraisal Supervisor
LICENSE # : CG 6569
STATE: SC
Exp. 06/30/2010

Appraiser [X] did [ ] did not inspect subject property.

GARY N. JAMES - APPRAISER RESUME

POSITION: Litigation/Commercial Appraisal Supervisor

EDUCATION:

Continuing Education Courses	Various for Licensing	1996-2010
Appraisal Institute:		
Standards of Professional Practice:	Course #410	May 1993
Standards of Professional Practice:	Course #420	May 1993
Appraisal Principles:	Course #110	June 1993
Appraisal Procedures:	Course #120	Dec. 1994
Basic Income Capitalization:	Course #310	Apr. 1995
General Applications:	Course #320	May 1995
Boston University:		
Masters of Business Administration:	MBA	May 1990
Cornell University:		
Masters of Landscape Architecture:	Graduate Study	1981-1983
University of Colorado:		
Masters of Landscape Architecture:	Graduate Study	1980-1981
Masters of Architecture:	Graduate Study	1980-1981
Williams College:		
Bachelor of Arts (Geology/Environ. Studies)	BA	June 1977

CERTIFICATION:

State of South Carolina:	Certified General Real Estate Appraiser (Exp. 6/30/12)	CG 6569
State of New Jersey:	Certified General Real Estate Appraiser (Exp. 12/31/11)	42RG00138900

RELATED EXPERIENCE:

Charleston County Assessor's Office	Litigation/Commercial Appraisal Supervisor	2010-Present
James Appraisal Associates (Principal Appraiser)	Commercial/Residential Appraiser	1993-2010

OTHER EXPERIENCE:

Crown Castle/Bell Atlantic Mobile	Real Estate/Project Manager	1995-2001
TFS, Inc.	Financial Consultant/Analyst	1991-1993
OHM Corporation	Program Mgr: Fed. Environ. Cleanup	1989-1993
State of Massachusetts	Project Manager: Heritage State Parks	1987-1989
Cornell University	Facilities Program Coordinator/Standards Writer	1983-1987
Nordic Ski Coach	US Olympic & World Ski/Biathlon Teams; NCAA: Univ. of Colorado & Cornell Univ.; World Jr. Ski Teams; Stratton Mtn. School	1977-1987

ADDENDA

Exhibit A: A List of Parcel ID Numbers included within the Subject Appeal

Exhibit A
LMP Properties, Inc.
The Legends at Mt. Pleasant Rental Community

Unit		Parcel#
116	1	5990000071
122	1	5990000075
128	1	5990000081
213	1	5990000084
215	1	5990000086
218	1	5990000089
221	1	5990000090
223	1	5990000092
224	1	5990000093
225	1	5990000094
226	1	5990000095
228	1	5990000097
312	1	5990000099
314	1	5990000100
316	1	5990000101
318	1	5990000103
322	1	5990000105
323	1	5990000106
327	1	5990000110
328	1	5990000111
412	1	5990000113
413	1	5990000114
414	1	5990000115
416	1	5990000117
421	1	5990000120
422	1	5990000121
424	1	5990000123
425	1	5990000124
426	1	5990000125
428	1	5990000127
516	1	5990000131
517	1	5990000132
521	1	5990000134
522	1	5990000135
524	1	5990000137
527	1	5990000140
611	1	5990000142
612	1	5990000143
613	1	5990000144
614	1	5990000145
615	1	5990000146
616	1	5990000147
617	1	5990000148
618	1	5990000149
622	1	5990000151
624	1	5990000153
625	1	5990000154

UPDATED
NOV 1 7 2008
ASTJDM

SCANNED
DEC 4 2008
AND INDEXED

	628	1	5990000157
	711	1	5990000158
	714	1	5990000161
	715	1	5990000162
	718	1	5990000165
3	721	1	5990000166
	722	1	5990000167
	723	1	5990000168
	725	1	5990000170
	726	1	5990000171
	727	1	5990000172
	728	1	5990000173
	811	1	5990000174
	814	1	5990000177
	815	1	5990000178
	816	1	5990000179
	823	1	5990000184
	825	1	5990000186
	826	1	5990000187
	828	1	5990000189
	911	1	5990000190
	913	1	5990000192
	914	1	5990000193
	915	1	5990000194
	916	1	5990000195
	918	1	5990000197
	921	1	5990000198
	922	1	5990000199
	923	1	5990000200
	924	1	5990000201
	925	1	5990000202
	926	1	5990000203
	928	1	5990000205
	1013	1	5990000208
	1014	1	5990000209
	1017	1	5990000212
	1022	1	5990000215
	1023	1	5990000216
	1024	1	5990000217
	1025	1	5990000218
	1026	1	5990000219
	1028	1	5990000221
	1111	1	5990000222
	1113	1	5990000224
	1114	1	5990000225
	1115	1	5990000226
4	1116	1	5990000227
	1118	1	5990000229
	1121	1	5990000230
	1123	1	5990000232
	1124	1	5990000233
	1125	1	5990000234

DATED
NOV 17 2008
BY TJDM

SCANNED
DEC 4 2008
AND INDEXED

5	1126	1	5990000235
	1127	1	5990000236
	1128	1	5990000237
	1212	1	5990000239
	1214	1	5990000240
	1216	1	5990000241
	1218	1	5990000243
	1221	1	5990000244
	1222	1	5990000245
	1226	1	5990000249
	1227	1	5990000250
	1228	1	5990000251
	1311	1	5990000252
	1315	1	5990000256
	1316	1	5990000257
6	1317	1	5990000258
	1318	1	5990000259
	1321	1	5990000260
	1323	1	5990000262
7	1325	1	5990000264
	1326	1	5990000265
	1328	1	5990000267
		121	

UPDATED
NOV 17 2008
ASTJDM

SCANNED
DEC 4 2008
AND INDEXED

Exhibit B: Board Of Assessment Appeals – Decision May 6, 2005

Lynn Carmody, Chairman
Raymond L. Murphy, MAI
Richard Weathers
Robert MacInnes
Cyndy T. Burris
Lolly A. Fabian
David Wertan
William A. Logan
Kristen Gregory



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ASSESSOR'S OFFICE

Hagood Morrison., Vice-Chair
Clary K. Butler, Sr.
James Lecque

843.958.4190
Fax: 843.958.4191
Lonnie Hamilton III Public Services Building
4045 Bridge View Drive, A-219
Charleston, SC 29405

BOARD OF ASSESSMENT APPEALS
May 22, 2007

CERTIFIED MAIL - RRR

Keystone Legends I, LP
Ron Follmann
93 N. Shelmore Blvd.
Mt. Pleasant, SC 29464

Re: PID#: 05/599-00-00-020 BAA#: 05-0110 OWNER: Keystone Legends I, LP

Dear Mr. Föllmann:

In accordance with your conference before the Charleston County Board of Assessment Appeals held on May 16, 2007, concerning the above-described property, the Board has directed me to advise you of its decision. Therefore, the Board's decision is outlined in the attached "Charleston County Board of Assessment Appeals Decision", dated May 22, 2007. +30 = 6-21-07

Either the owner or the Assessor may contest this decision of the Board to the South Carolina Administrative Law Court, Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, SC 29201, within thirty (30) days after the date of the Board's written decision. A copy of the Request for Contested Case Hearing must be mailed or delivered to the other parties at the same time. The written request must contain the following:

A. The name and address of the party requesting the hearing and the issue(s) for which the hearing is requested.

B. A copy of the County Board's decision from which the contested case is being requested.

C. The relief requested.

If the Board's decision is not appealed, the Assessor must certify the final value to the County Auditor for entry upon the property tax assessment rolls.

Yours very truly,

Lynn Carmody /gbs
Lynn Carmody
Chair

cc: Members, BAA; cc: Mike Huggins, Assessor; Joseph Dawson III, County Attorney
RLC. TSG. JTE 5.29.07

www.charlestoncounty.org

CHARLESTON COUNTY
BOARD OF ASSESSMENT APPEALS
DECISION

Re:	**OWNER:**	**Keystone Legends I, LP**
	PID#:	**05/599-00-00-020**
	BAA#:	**05-0110**
	Date of Decision:	**May 22, 2007**

The Charleston County Board of Assessment Appeals met on May 16, 2007, for the purpose of hearing the above-referenced taxpayer's appeal from the Charleston County Assessor's assessment of the above-referenced property for tax year 2005.

The subject property is a 200 unit apartment complex located at 1100 Legends Club Drive in Mount Pleasant completed by December 31, 2001. The Legends at Mount Pleasant Apartments sits on 22.92 acres in the Town of Mount Pleasant off Highway 17 North. The Assessor was represented by Steve Everman and Toy Glennon. The owner, Keystone Legends I, LP, was represented by Ronald Follmann.

Mr. Everman submitted the estimated value of the subject at $16,644,000 for tax year 2005 using the Income Approach tables developed for reassessment. Mr. Everman sited three sales of comparable properties to support the value of the subject. Mr. Everman used a Net Operating Income (NOI) of $1,259,711 and a capitalization rate of 7.5% in his valuation based on equity.

Mr. Follmann stated Mr. Everman was not using real numbers in determining the value of the subject and his value of $12,611,967 is derived from the audited income statement for tax year 2005. Mr. Follmann used an NOI of $1,150,559 and a capitalization rate of 9%. His valuation for tax purposes as of December 31, 2004 was $12,783,989. Mr. Follmann did not authorize the HUD audited financial statement to be released to the Assessor under a Freedom of Information Act request.

After carefully considering the information presented, the Charleston County Board of Assessment Appeals sets a compromised value of $14,656,000 for tax year 2005.