

#### CHAPTER 4. APPRAISAL OF AIR RIGHTS

- 4-1. ELIGIBILITY. A multifamily proposal to be built on air rights which meets all other requirements of feasibility is eligible for mortgage insurance. Air rights give the holder the right to use designated air space for a period specified in an agreement. Air rights may be similar to a leasehold in that both convey a right of use for a period of time while another party retains title to the underlying ground or structure. The rights may be acquired by a single payment for fee title to air space or by periodic payments as with a lease. To be utilized for building purposes, air rights must also include provisions for construction of separate support structures (column lots) or for use of existing support structures. In the latter case, the existing structure must be structurally capable.
- 4-2. LOCATION. Air rights sites have come into use where available land for the proposed use is limited and expensive. The use of air space will make available sites of adequate size in those locations of pressing need where sites are not otherwise available. Air rights will also facilitate development of projects with close proximity to unusually desirable centers in urban areas where demand is great. The additional cost of a project on air rights may, however, off-set much of the price advantage of an air rights site.
- 4-3. VALUATION OF AIR RIGHTS. The value of air rights is the value of the unencumbered land less the sum of the additional costs of developing the air rights and the capitalized value of the reduced utility of the building. These value-reducing factors may include the following.
- a. Functional Inutility. The economic value lost due to functional inutility caused by the design requirements of the proposal to allow its operation on the air rights site. One example of this could be the displacement of available space by ventilation shafts to serve the existing facilities at ground level. This loss would be measured by the capitalization of the net rent loss.
  - b. Additional Construction Cost. The additional cost of construction proposed on an air rights site, including the additional architectural and engineering cost incurred. Examples of these costs could be extra foundations and suspension systems, and more elaborate access systems to street level.
  - c. Longer Construction Period. The additional carrying and financing charges (particularly interest) caused by the longer construction period resulting from the fact that the holder of the air rights may be required to construct his project around and/or above existing or simultaneous construction.

d. Legal and Organization Costs. Any increase in legal and organization costs required above those incurred to produce the same number and type of residential units on a fee simple site at ground level.

4-4. VALUE IN FEE SIMPLE. The value of the air rights will be determined in two steps. First, a parcel of ground adequate in size to accommodate the development of the sponsor's proposal at ground level in this location is valued in fee simple as if unencumbered by the air rights. The size of the parcel as determined in this manner may differ from the area underlying the air rights to be appraised. The value of the equivalent ground level site may not exceed that indicated for the proposed residential use. This value estimate will reflect any advantages inherent to strategic location and the scarcity of alternate sites. It will also reflect the elimination of the need for the added cost of demolition and land assemblage which may be otherwise typical to the area.

4-4. VALUE ADJUSTMENTS. The special construction cost and the value loss brought on by the functional inutility of the air rights site (paragraphs 4-3.a. through 4-3.d. above) are subtracted from the fee simple value estimate of the unencumbered parcel of ground. The remainder will be the estimate of value of the air rights.

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4-6. EXAMPLE AIR RIGHTS CASE. The following is an example case which will demonstrate a technique available to the appraiser in his analysis of an air rights proposal.

a. In our example case the Field Office is presented with a proposal involving air rights construction. Included in the submission for feasibility analysis is a description of the building type, construction system, and the rights and obligations involved in the construction and maintenance of the air rights in addition to the information normally submitted with an application for feasibility analysis.

b. The valuator first appraises the site in fee simple. He estimates that a fee simple site of 50,000 square feet would be required to facilitate the development of the sponsor's proposal. Based upon available market information on unencumbered land sales, the Value Fully Improved of the fee simple site is estimated to be \$1,205,000.

c. The appraiser next analyzes the air rights agreement in order to determine the limitations placed upon the proposal by the agreement. Next, he reviews the sponsor's proposal to determine the manner in which the sponsor intends to comply with the physical and regulatory restraints of this particular air rights site.

d. The following conditions are found:

- (1) Because of the character of the existing underlying facilities, the building must be supported over 25' spans. The cost analyst has provided the valuator with an estimate of \$525,000 for unusual costs of the support system. This represents the difference in cost of normal footings and basement slab, and the platform slab combination.
- (2) The added expense of establishing an acceptable access system is estimated to be \$100,000 above that normally required since the second floor lobby would be entered from an elaborate ramp system allowing vehicular access to the elevated platform.

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- (3) It would normally cost \$10.00 per square foot to provide basement area. This lost space must be replaced on an upper floor for \$15.00 per square foot. The differential compared to the development of fee simple ground is estimated to be \$5.00 per square foot of basement area for a total of \$175,000.
  - (4) The construction program cannot interrupt the operation of the existing facilities. This will increase construction time and complicate certain operations with a combined effect on cost of construction estimated to be \$50,000.
  - (5) The increase in legal and organization cost is estimated to be \$15,000.
  - (6) The less desirable access, the presence of an unusual amount of dead space in the building and the absence of street level floor area, is expected to produce net income of \$10,000 a year less than would otherwise be attainable. An overall Capitalization Rate of 9.5% is developed from data and applied to the \$10,000 net income reduction due to reduced utility. The resulting \$105,260 is the value loss.
  - (7) The total value loss attributable to the development of this proposal on air rights rather than a ground level site is the sum of the additional cost and value losses. This figure when subtracted from the value in fee simple will indicate the value of the air rights.

Value in Fee Simple	\$1,250,000
Losses In Value	
Item 1 (Platform)	\$525,000
Item 2 (Access)	100,000
Item 3 (Basement Area)	175,000
Item 4 (Divided Interest)	50,000

Item 5 (Increased L & O)	15,000	
Item 6 (Reduced Utility)	105,260	
Total Value Loss		-970,260
Estimated Value of Air Rights		\$ 279,740

- (8) The direct comparison of air rights with other air rights sales is generally impractical because air rights sales are usually few and each is likely to be unique in utility, construction requirements and restraints.

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- 4-7. LEASING OF AIR RIGHTS. Where air rights are to be leased, first, the appraiser shall estimate the value of the air rights in fee simple as described above. Second, with the value of the air rights in fee simple as a starting point, the Appraiser shall follow the procedures contained in Chapter 3 of this Handbook. \*

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HUD-Wash., D.C.

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