

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 45615

Petitioner:

**LENNAR/US HOMES CORPORATION/SPIRAL
LONE TREE,**

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 19, 2008, MaryKay Kelley and Lyle D. Hansen presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**9990 Park Meadows Drive, Lone Tree, Colorado
(Douglas County Schedule No. R04286678)**

The subject property is a three story commercial office building constructed in 2001. The building contains a total of 79,471 square feet of gross building area and 74,871 square feet of net rentable area. The building is designed to accommodate a single-tenant. It is situated on a 6.152 acre site.

Petitioner presented the following indicators of value:

Market:	\$6,993,448.00
Cost:	n/a
Income:	\$5,619,057.00

Based on the market approach, Petitioner presented an indicated value of \$6,993,448.00 for the subject property.

Petitioner presented four comparable sales ranging in sales price from \$3,800,000.00 to \$40,000,000.00 or \$59.98 to \$154.21 per square foot of gross building area and in size from 63,352 to 419,090 square feet. After adjustments were made, the sales ranged from \$77.97 to \$117.20 per square foot.

The Board gave little weight to Petitioner's Comparables 1 and 2 because of older years of construction of 1983 and 1984. The subject property is a newer building constructed in 2001. The Board gave little weight to Petitioner's Comparable Sale 3 because of a substantial difference in gross building area. Comparable Sale 3 has a total of 419,090 square feet of gross building area compared to 79,471 square feet in the subject property.

Petitioner adjusted Comparable Sale 4 downward for superior physical characteristics. The building is rated as a Class A office building compared to the subject building which is rated as a Class B+ building. Petitioner adjusted Comparable Sale 4 downward by 15% for economic characteristics reflecting the office vacancy in the area. The Board concluded a downward adjustment for economic characteristics of 10%. After applying Petitioner's adjustment for physical characteristics of a minus 10% and a positive adjustment of 1% for year of construction, the adjusted sale price per square foot became \$124.91. For the 79,471 square foot gross building area, the value indication becomes \$9,926,730.00. This amount was rounded to \$9,900,000.00.

Petitioner presented no cost approach.

Petitioner presented an income approach to derive a value of \$5,619,057.00 for the subject property. Petitioner applied a full service rate of \$16.50 per square foot, a vacancy rate of 10%, a management fee of 5%, office expenses at \$5.00 per square foot, 3% for reserves for replacement, and a capitalization rate of 11.57% to derive a value indication of \$5,619,057.00.

The Board gave little weight to Petitioner's income approach because of the utilization of comparable office leases from multi-tenant office buildings. Both Petitioner and Respondent identified the subject property as a single-tenant office building containing a total of 74,871 square feet of net rentable area. Six of the seven Petitioner's comparable lease rentals ranged in leased square feet from 701 to 10,107. The seventh comparable lease rental had 103,663 square feet and was identified as a renewal lease.

Petitioner is requesting a 2005 actual value of \$6,000,000.00 for the subject property.

Respondent presented an indicated value of \$12,750,000.00 based on the following indicators of value:

Market:	\$12,715,000.00
Cost:	\$14,188,000.00
Income:	\$12,990,000.00

Based on the market approach, Respondent presented an indicated value of \$12,715,000.00 for the subject property.

Respondent presented five comparable sales ranging in sales price from \$6,630,000.00 to \$29,500,000.00 or \$149.00 to \$194.00 per square foot of gross building area and in size from 39,500 to 164,584 square feet. After adjustments were made, the sales ranged from \$157.00 to \$204.00 per square foot.

The Board gave little weight to Respondent's Comparable Sales 1, 3, 4, and 5 because of the substantial difference in gross building area from the subject property. Comparable Sale 2 was also utilized by Petitioner in the market approach, as Petitioner's Comparable Sale 4. As discussed previously, the Board adjusted the sale for economic characteristics, physical characteristics, and year of construction for an adjusted sales price per square foot of \$124.91.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$14,188,000.00.

Respondent concluded a land value of \$2,144,000.00, a reproduction cost new of \$12,678,439.21, and total accrued depreciation of 5%, resulting in a value indication of \$14,188,365.25. Respondent has classified the subject property to be a Class A commercial office building and completed the cost approach utilizing Class A costs. The Board considers the subject property to be a Class B commercial office building. Consequently, the Board gave no weight to the value indication derived by the cost approach.

Respondent used the income approach to derive a value of \$12,990,000.00 for the subject property.

Respondent applied a triple net rental rate of \$16.00 per square foot, a vacancy rate of 5%, expenses at 3%, and a capitalization rate of 8.50% to derive a value indication of \$12,990,000.00. The Board gave little weight to Respondent's income approach because of the utilization of comparable office leases from multi-tenant office buildings. Both Petitioner and Respondent identified the subject property as a single-tenant office building containing a total of 74,871 square feet of net rentable area. Four of six of Respondent's comparable office lease rentals ranged in leased square feet from 500 to 7,082. One of the comparable lease buildings was a medical office building. The fifth comparable lease building rental had 128,500 square feet and was identified as a Class A office building.

Respondent assigned an actual value of \$11,097,036.00 to the subject property for tax year 2005.

The Board utilized the income approach to derive a value estimate for the subject property. The Board concluded that a triple net rental rate of \$14.00 per square foot would be more appropriate for building Class B. Both Petitioner and Respondent utilized multi-tenant office leases to derive a lease rate for the subject property. The subject property is identified as a single-tenant user containing a net rentable area substantially larger than the comparable office leases. The Board concluded that larger office space would lease for a lower rate per square foot. Consequently, the

Board concluded to a net lease rate of \$14.00 per square foot. The Board concluded a vacancy rate of 10%, an expense ratio of 3%, and an overall capitalization rate of 9.3%. The capitalization rate was derived from the Integra Report from Petitioner's Exhibit A where a total of 19 reporting capitalization rates ranged from 8.0% to 12.0%. The value indication by the income approach was \$9,800,000.00.

The Board concluded that the 2005 actual value of the subject property should be reduced to \$9,800,000.00.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$9,800,000.00.

The Douglas County Assessor is directed to change his records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2007).

DATED and MAILED this 25th day of March 2008.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley
MaryKay Kelley

Lyle D. Hansen
Lyle D. Hansen

This decision was put on the record

MAR 25 2008

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Heather Heinlein
Heather Heinlein

