

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 47974

Petitioner:

WOODMEN JOINT VENTURE LLP ET AL,

v.

Respondent:

PUEBLO COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 15, 2008, Karen E. Hart and Sondra W. Mercier presiding. Petitioner was represented by Bret Cogdill, Esq. Respondent was represented by Daniel Kogovsek, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1 McDonnell Douglas Street, Pueblo, Colorado
(Pueblo County Schedule No. 03-300-21-042)**

The subject is a 186,250 square foot manufacturing facility on 11.2 acres. There is an additional 6,900 square feet in sheds and out-buildings. The building was constructed in 1988 as a rocket manufacturing plant for McDonnell Douglas. The facility was closed in mid-2004 and remained vacant as of the assessment date. The property was placed under contract on May 19, 2006 for a price of \$1,863,000.00. The sale closed on August 21, 2006, according to the contract.

Petitioner analyzed the subject based on the main building square footage of 186,250. Petitioner presented the following indicators of value:

Market:	\$1,863,000.00
Cost:	\$2,450,000.00
Income:	\$2,140,000.00

Based on the market approach, Petitioner presented an indicated value of \$1,863,000.00 for the subject property.

Petitioner presented four comparable sales ranging in sales price from \$975,000.00.00 to \$5,350,000.00 and in size from 54,820 to 250,151 square feet. After adjustments were made, the sales ranged from \$1,821,900.00 to \$2,650,599.00. Petitioner included the sale of the subject, with no adjustments indicated.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$2,450,000.00. Petitioner concluded to a land value equal to Respondent's, at \$72,800.00. Petitioner applied physical depreciation of 36% based on straight line depreciation. Functional depreciation of 33% was also deducted based on an analysis of potential market rent for the subject compared to rent for more traditional distribution facilities.

Petitioner presented an income approach to derive a value of \$2,140,000.00 for the subject property. Since purchase, the subject has been available for lease at an asking rental rate of \$2.00 per square foot net of expenses. Comparable properties indicate a rental rate range of \$2.00 to \$3.12 per square foot net of expenses. Petitioner applied a vacancy and collection loss of 25%, operating expenses of 8%, and a capitalization rate of 12%.

Petitioner is requesting a 2007 actual value of \$1,863,000.00 for the subject property.

Respondent analyzed the subject based on the total square footage of the main facility with outbuildings, at 198,761. Respondent presented the following indicators of value:

Market:	\$4,455,800.00
Cost:	\$5,161,036.00
Income:	\$3,453,500.00

Based on the market approach, Respondent presented an indicated value of \$4,455,800.00 for the subject property.

Respondent presented three comparable sales ranging in sales price from \$975,000.00 to \$3,350,000.00 and in size from 39,680 to 196,584 square feet. The indicated values were \$15.90 to \$26.55 per square foot. After adjustments were made, the sales ranged from \$15.16 to \$26.55 per square foot. Respondent included the sale of the subject in the market approach, but gave it little consideration. Respondent contends that the sale of the subject was not an arm's-length transaction as it occurred under duress; therefore, it is not a reliable indication of value.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$5,161,036.00, including land value. Respondent applied depreciation of 26% based on Marshall Valuation Service tables, then applied an additional 10% deduction for the extended vacancy.

Respondent used the income approach to derive a value of \$3,453,500.00 for the subject property. Respondent applied a rental rate of \$2.67 per square foot, a vacancy of 6.28%, and an overall rate of 12.4%

Respondent assigned an actual value of \$3,453,266.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2007 valuation of the subject property was incorrect. The Board was convinced that the actual sale of the subject should be considered. While it is likely that some discounting occurred as the seller attempted to liquidate property that was no longer in use, Respondent presented no evidence that it was in fact a “distressed” sale. Further, Respondent’s cost and income approaches failed to adequately address the functional obsolescence of the subject or the costs associated with vacancy and lease-up costs.

While the Board places great reliance on the actual sale of the subject, consideration is also given to the cost and income approaches as presented by the Petitioner. As the property was vacant at the time of sale as well as the date of value, no one approach is believed to be most reliable. Assuming a discount of just 10% to the buyer, the value indicated adjusts to \$2,049,300.00, more in line with the cost and income approaches. The Board has concluded to a value of \$2,050,000.00 for the subject based on all three approaches.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$2,050,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$2,050,000.00.

The Pueblo 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 9th day of June 2008.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Sondra W Mercier
Sondra W. Mercier

This decision was put on the record

JUN 09 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

