

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>ACQUEST DEVELOPMENT</b></p> <p>v.</p> <p>Respondent:</p> <p><b>LARIMER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 48029</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on September 30, 2008, Diane M. DeVries and Debra A. Baumbach presiding. Petitioner was represented by Bradley J. O'Brien, Esq. Respondent was represented by Jeanine Haag, Esq. Petitioners are protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**2150 Centre Avenue, Fort Collins, Colorado  
(Larimer County Schedule No. R161411)**

The subject property is comprised of two facilities. The first one is a three-story office complex constructed of fireproof steel built in 2001. This is considered to be the main facility. The second facility is a single-story masonry fabrication shop built in 2001. Both of the facilities are situated on leased land owned by Colorado State University.

Petitioner presented an indicated value of \$3,000,000.00 for the subject based on a discounted cash flow analysis for tax year 2007.

Petitioner's witness, Mr. William L. Huntress, President and Managing Partner of Acquest Development testified the subject property is located within a multi-building research park located at Colorado State University. The research park is known as the United States Department of Agriculture Natural Resources Research Center. The park consists of five buildings known as "A" through "E,"

with an additional building known as “Building C Warehouse.” The subject property consists of Building C and C Warehouse.

Mr. Huntress testified that Acquest Development is a real estate development company that develops research facilities throughout the county and then leases them back to the government. His company was responsible for the construction of the subject property.

Petitioner entered into a contract to construct the two buildings and then lease them back to Colorado State University with a sub-lease to United States General Services Administration. Colorado State University owns the land under the subject property. There is a 20-year ground lease at a rate of \$1.00 per year with an estimated 12 ½ years left on the contract. Acquest Development leased the buildings concurrent with the 20-year ground lease. At the end of the ground lease Colorado State University would then have ownership of the buildings.

Mr. Huntress testified Respondent has overvalued the subject property as a result of the ownership structure. Ownership rights in the improvements at the end of the lease revert to Colorado State University. Petitioner is only able to recapture costs and any profit by collecting any sub-lease rents over the 20 year contract. The sub-lessee was not satisfied with several aspects of construction in five rooms of the main building that resulted in collection losses.

Mr. Huntress testified he concluded to \$3,000,000.00 in his discounted cash flow analysis. During the time frame of January 2005 to June of 2006, annual gross income was estimated to be \$2,500,000.00. After operating expenses and real estate taxes were deducted the net operating income was \$2,000,000.00. The debt service income was estimated to be \$1,963,000.00. The sub-lessee withheld rent of \$500,000.00 for an annual cash flow range of -\$63,000.00 to a +\$37,000.00. Based on these figures there was no positive value.

Petitioner is requesting an actual value of \$3,000,000.00 for the subject property for tax year 2007.

Respondent presented the following indicators of value:

Market:	\$ 5,800,000.00
Cost:	\$10,321,391.00
Income:	\$ 5,627,100.00

Based on the market approach, Respondent presented three comparable sales for the office building and three comparable sales for the fabrication shop. The comparable sales selected for the office building ranged in sales price from \$2,600,000.00 to \$12,600,000.00. After adjustments the sales ranged from \$1,560,000.00 to \$7,560,000.00. The comparable sales selected for the fabrication shop ranged in sales price from \$870,000.00 to \$1,200,000.00. After adjustments the sales ranged from \$522,000.00 to \$720,000.00.

The values indicated in the market approach only represent improvement value, there was no land value considered. The improvement value was determined by deducting 25% for land value to

arrive at an improvement value. Respondent correlated to a value of \$5,800,000.00 based on the market approach.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$10,321,391.00. Respondent assigned a quality rating of average plus for the office building and average for the fabrication shop. Physical depreciation for both properties was deducted and land value was not considered in this methodology.

Respondent used the income approach to derive a value of \$5,627,100.00 based on a general income, triple net, pro-forma approach. Respondent applied 12% vacancy and collection loss. Total operating expenses were estimated to be 29%. A cap rate of 11% was applied for a value of \$9,378,500.00. Land value of \$2,344,625.00 was subtracted for an improvement value of \$7,033,875.00. This income approach was on a fee simple basis. At the end of the 20-year lease, the improvements revert back to Colorado State University; a 20% encumbrance was applied for a value per square foot for improvement only of \$57.00 or \$5,627,100.00.

Respondent assigned an actual value of \$5,785,300.00 for the subject property for tax year 2007.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2007 valuation of the subject property was correct.

The Board was not convinced that Petitioner's cash flow analysis methodology was supported by the evidence and testimony. The Board was convinced there is an encumbrance associated with the property and the value of the improvements would be affected. However, Petitioner did not provide the Board with any evidence supporting his income calculations or the effects of the encumbrance.

The Board was convinced the income approach is the most appropriate methodology to value the subject property. Respondent utilized all three approaches to value in their valuation. Respondent did make an adjustment for the encumbrance taking into consideration the affect it has on the value.

### **ORDER:**

The petition is denied.

### **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 CRS § 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 § 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).

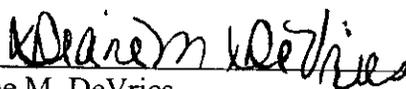
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

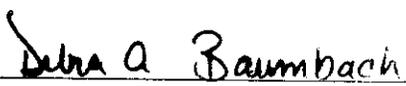
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 14<sup>th</sup> day of November 2008.

**BOARD OF ASSESSMENT APPEALS**

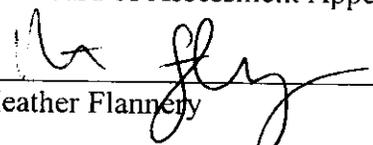
  
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Diane M. DeVries

  
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Debra A. Baumbach

This decision was put on the record

**NOV 13 2008**

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

  
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Heather Flannery

