

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 48664 &
48665**

Petitioner:

**BENJAMIN S. CATLIN UND 73.36% AND PROLO &
EL DORADO RIDGE LLC,**

v.

Respondent:

**BROOMFIELD COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 30, 2008, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Richard Olona, Esq. Respondent was represented by Tami Yellico, Esq. Petitioner is protesting the 2007 actual value of the subject property. This is a consolidation of Docket Nos. 48664 and 48665.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**11101 West 120th Avenue, Broomfield, Colorado
(Broomfield County Schedule Nos. R1131084 and R1129059)**

The subject is a four-story office building of 106,628 net rentable square feet on an 8.27 acre site. The building was completed in 1999. Prior to April 2006, the building was occupied by a single tenant. The property was subsequently converted for multi-tenant use at a reported cost of \$4,268,150.58.

Petitioner presented the following indicators of value:

Market: \$6,792,000.00
Income: \$5,384,673.00

Based on the market approach, Petitioner presented an indicated value of \$6,792,000.00 for the subject property. Petitioner presented five comparable sales ranging in sales price from \$24.34 to \$153.73 on a per square foot basis and in size from 52,238 to 161,000 square feet. After adjustments were made for location, age, economic characteristics, physical characteristics, and size, the sales ranged from \$33.84 to \$86.09 per square foot. Petitioner concluded to a value of \$60.00 per square foot for the subject. As the subject was largely vacant and being converted to multi-tenant use at the time of value, the Board does not believe that the market approach provides a reliable indication of market value in this case.

Petitioner presented an income approach to derive a value of \$5,384,673.00 for the subject property. Petitioner applied a net rental rate of \$12.00 per square foot with reimbursement of expenses in the amount of \$7.50 per square foot. Petitioner used a vacancy rate of 20%, management fee of 5%, expenses not including property tax of \$625,763.00, and operating, maintenance and reserve expense of 5%. Petitioner concluded to a capitalization rate of 9.5% plus an additional 2.36% for property taxes. This resulted in a capitalized value of \$7,384,673.00. A deduction of \$2,000,000.00 was made to reflect physical obsolescence or the costs associated with the conversion to multi-tenant use. Petitioner's calculation of operating expenses was incorrect as property taxes were not accurately deducted; consequently, Petitioner's value using the income approach was understated. The corrected deduction for operating expenses should be \$454,310.00. Petitioner included a 3% deduction for reserves, typically inherent in the overall rate selected. A recalculation with the corrected operating expense amount and no deduction for reserves for replacement results in a revised value of \$7,227,777.00.

Petitioner is requesting a 2007 actual value of \$5,800,000.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$10,240,000.00
Cost:	\$9,930,000.00
Income:	\$9,620,000.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$9,930,000.00. Respondent included a deduction of \$1,266,230.00 for functional obsolescence related to the conversion from single to multi-tenant use. This was based on permits issued between June and October 2006. No physical or economic obsolescence was deducted.

The building was completed in 1999 and was approximately 8 years of age at the time of value. While perhaps minimal, some form of physical deterioration has occurred within that time period, requiring a deduction for physical depreciation. The Board also believes that economic obsolescence existed as of the date of value relative to the loss of income and costs associated with conversion and lease-up of the building. Further deductions were warranted from Respondent's cost approach.

Respondent presented three comparable sales ranging in sales price from \$104.17 to \$153.73 per square foot and in size from 150,667 to 336,000 square feet. After adjustments were made, the

sales ranged from \$95.31 to \$102.61 per square foot. As previously discussed, the subject was largely vacant and being converted to multi-tenant use at the time of value; consequently, the Board did not find the market approach to be a reliable indication of market value in this case.

In the income approach, Respondent concluded to a net rental rate of \$13.25 per square foot with a 27% deduction for vacancy and collection loss. Expenses of 7% were deducted for management, reserves for replacement, and miscellaneous non-reimbursable expenses. Respondent applied a capitalization rate of 8.0%, resulting in a value of \$11,989,552.00. Conversion costs of \$1,270,000.00 and lease-up costs of \$1,100,000.00 were deducted resulting in an adjusted value of \$9,620,000.00. The Board found Respondent's rental rate to be above that indicated by comparable lease information for the subject as well as within similar adjacent buildings. Respondent's approach overstated the occupancy as of the date of value, which caused conversion costs to be understated. Respondent's capitalization rate of 8.0% does not adequately reflect the high risk associated with the subject's high vacancy.

Based on the market and income approaches, Respondent presented an indicated value of \$9,900,000.00 for the subject property. Respondent assigned an actual value of \$10,673,700.00 to the subject property for tax year 2007, but is recommending a reduction in value to \$9,900,000.00.

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

Petitioner presented information indicating costs of \$4,268,150.58 for conversion of the subject to multi-tenant use. There were likely additional costs associated with leasing and loss of income to the property during the time of conversion. However, Petitioner failed to detail these costs with regard to date of expenditure compared to date of value; consequently, the Board is unable to make a flat deduction of this amount. After corrections as previously discussed, the Petitioner's indication of value using the income approach is believed to be reliable, as it adequately reflects the lack of income and high expenses associated with the conversion to multi-tenant use.

The Board concluded that the 2007 actual value of the subject property should be reduced to \$7,230,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$7,230,000.00.

The Broomfield 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 14th day of May 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Sondra W. Mercier

Sondra W. Mercier

This decision was put on the record

MAY 14 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

