

<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>ALLIANCE CENTER, LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>PROPERTY TAX ADMINISTRATOR.</b></p>	<p><b>Docket No.: 48968</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on October 6, 2008, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner, Alliance Center, LLC, was represented by John Powers, manager. Respondent was represented by Robert H. Dodd, Esq. Petitioner is protesting Respondent’s partial denial of property tax exemption for tax years 2004, 2005, and 2006 for the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1536 Wynkoop Street, Denver  
(Denver County Parcel No. 233113020; PTA File No. 16-03404-01)**

The subject is a multi-tenant office building and a surfaced parking lot that are leased to non-profit organizations. Respondent granted a 94% exemption on the subject property’s building starting June 30, 2004; an 87% exemption on the land for the period of June 30, 2004 through June 30, 2006; and a 94% exemption on the land starting June 30, 2006.

Petitioner contends that the subject property is entitled to a 94% exemption on the land portion of the subject for the period of June 30, 2004 to June 30, 2006 and a 100% property tax exemption for the entire property (land and building) for the period beginning July 1, 2006. During the hearing, the 94% exemption on the land was calculated based on that portion of the parking lot that was leased for the defined period to the Tattered Cover, a for-profit retail store.

The subject was not granted 100% exemption because of two lease agreements that were found by Respondent to be non-qualified, as they exceeded the allowance defined in CRS § 39-3-116(2)(c) as “one dollar per year plus an equitable portion of the reasonable expenses incurred in the operation and maintenance of the property so used.” Petitioner contends that he would have been willing to refund the excess amount to the non-qualified tenants had he received that option prior to the hearing. Petitioner further contends that capital expenditures that cause a reduction in expenses should be allowed as reasonable expenses to the building for the year incurred.

Respondent recommended at the hearing that the subject property is entitled to a 93% property tax exemption on the land, and a 99% property tax exemption for the building for the period of June 30, 2004 to June 30, 2006; and a 99% property tax exemption for the entire property (land and building) for the period starting July 1, 2006.

Petitioner did not present sufficient probative evidence and testimony to prove that the subject property meets the qualifications for a 100% property tax exemption for tax years 2004, 2005, or 2006.

The Board was convinced by Respondent that the exemption to the land for the period of June 30, 2004 to June 30, 2006 was correctly calculated at 93% based on the non-qualified lease to Tattered Cover for six parking spaces. The Board was further convinced that the calculation of 99% for the exemption based on the exclusion of two non-qualified lease agreements was correct based on CRS § 39-3-116(2)(c).

In addition, the Board disagrees with Petitioner’s contention that capital expenditures should be allowed as reasonable expenses. CRS § 39-3-116(2)(c) states, “For purposes of this paragraph (c), reasonable expenses shall include interest expenses but shall not include depreciation or any amount expended to reduce debt.” Under the Division of Property Taxation Exempt Property Section’s Rules and Regulations for Exempt Properties, R-12, “Reasonable expenses” are defined as “utilities; custodial services and supplies; costs for routine maintenance, parts and labor; insurance; taxes; and interest on loans involving that particular piece of property.” The Rules and Regulations indicate “this does not include . . . costs of capital improvements . . . .”

**ORDER:**

The subject property meets the qualifications for a 93% property tax exemption on the land and a 99% property tax exemption for the building for the period of June 30, 2004 to June 30, 2006; and a 99% property tax exemption for the entire property (land and building) for the period beginning July 1, 2006.

The Property Tax Administrator is directed to change her records accordingly.

**APPEAL:**

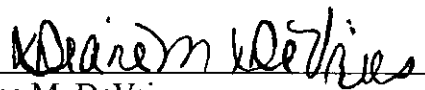
If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review thereof according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days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

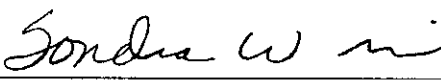
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it is a matter of statewide concern, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS section 24-4-106(11) (commenced by the 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).

CRS § 39-2-117(6) (2008).

**DATED and MAILED** this 17<sup>th</sup> day of October 2008.

**BOARD OF ASSESSMENT APPEALS**

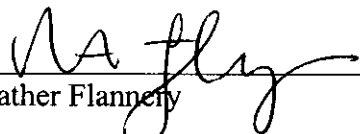
  
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Diane M. DeVries

  
\_\_\_\_\_  
Sondra W. Mercier

This decision was put on the record

**OCT 17 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

