

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BROADWAY PARK WEST, LLC</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49415</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 19, 2008, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by Sheila M. Geraghty, Esq. who appeared by phone. Respondent was represented by David V. Cooke, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**1028 Park Avenue West, Denver, Colorado
(Denver County Schedule No. 02342-24-001-000)**

The subject is a two-building commercial and residential property located in the Stiles submarket, north of the central business district of the City and County of Denver. The buildings are contiguous and joined by a common wall and treated as one economic unit by the Denver Assessor's Office. The building located at 2266 Broadway is a brick two-story constructed in 1910. It has commercial uses on the first floor and a residential unit above. This building has had minimal renovation since construction. The building located at 1028 Park Avenue West is single-story and was constructed in 1920. This building has been renovated and is used for automotive purposes. The combined buildings contain 4,925 square feet of commercial improvements and 2,025 square feet of second-story residential improvements. Zoning is B8A, the buildings have two off-street parking spaces, and site size is 7,511 square feet.

Petitioner presented the following indicators of value:

Market:	\$431,766.00
Cost:	No value developed
Income:	No value developed

Petitioner presented an indicated value of \$431,766.00 for the subject property.

Petitioner presented seven comparable sales ranging in sales price from \$70,064.00 to \$4,312,500.00. From these sales, Petitioner extracted a land value, and based on lot size for each comparable derived per square foot value ranging from \$21.00 to \$38.50 with a weighted average of \$26.91 per square foot. Petitioner's witness indicated that these comparables were provided by Petitioner's attorney and that he was not familiar with their physical or economic characteristics or the source of the information, and no discussion relative to adjustments to the comparables was provided; therefore the Board gave little weight to these comparable sales.

Petitioner argued that the property should be valued at the 2003 value level or no more than \$50.00 per square foot based on lot size because of the age, location, and parking associated with the subject, as well as the vacancy in the subject. Petitioner further argued that the neighborhood had a number of negative influences resulting in difficulty in finding tenants for the subject.

Petitioner is requesting a 2007 actual value of \$431,766.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$726,500.00 commercial and residential combined
Cost:	\$349,760.00 commercial only
Income:	\$391,600.00 commercial only

Based on the Market and Income Approach, Respondent presented an indicated value of \$675,100.00 for the subject property with \$283,500.00 allocated to residential and \$391,600.00 allocated to commercial.

In the Market Approach, Respondent presented four commercial comparable sales and four residential sales. The commercial sales ranged in sales price from \$300,000.00 to \$780,000.00 and in size from 1,520 to 9,920 square feet. After adjustments were made, the sales ranged from \$78.63 to \$116.71 per square foot. Respondent reconciled at an adjusted value of \$90.00 per square foot or \$443,000.00 for the commercial space. The residential sales ranged from \$75.00 to \$264.00 per square foot. Respondent reconciled value at \$140.00 per square foot, which indicated a contributory value for the residential portion of the building of \$283,500.00. The combination of the commercial and residential components of the buildings resulted in an indicated aggregate value of \$726,500.00

In the Cost Approach, Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the commercial portion of the subject property of \$349,760.00. The estimate of land value allocated to the commercial portion of the property was \$141,800.00. The

Cost Approach was used by Respondent to provide an opinion of the commercial uses of the property only.

Respondent used the Income Approach to derive a value of \$391,600.00 for the commercial portion of the subject property. Four rent comparables were referenced in the analysis resulting in an indication of rent at \$8.90 per square foot for the retail space and \$8.00 per square foot for the warehouse space. A 5.0% vacancy and collection loss and 10.0% expense factor was used in the model and the net operating income of \$35,240 was then capitalized at a 9.0% overall rate including tax load resulting in a value of \$391,600.00. Similar to the Cost Approach and per statutory requirements, the Income Approach was used by Respondent to provide an opinion of the commercial portion of the property only.

Respondent assigned an actual value of \$550,000.00 to the subject property for tax year 2007 with \$253,100.00 allocated to residential and \$296,900.00 allocated to commercial.

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

“[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . . .” *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Respondent’s assigned value accurately reflects the market value for the subject. The Board finds that Petitioner did not present sufficient probative evidence to dispute Respondent’s assigned 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).

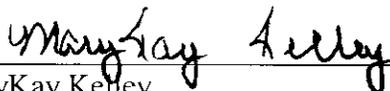
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

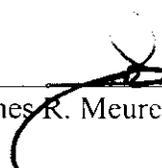
CRS § 39-8-108(2) (2008).

DATED and MAILED this 2nd day of January, 2009.

BOARD OF ASSESSMENT APPEALS



MaryKay Kelley

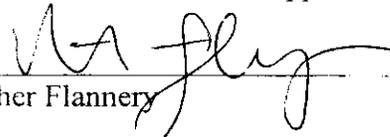


James R. Meurer

This decision was put on the record

JAN 02 2009

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



Heather Flannery

