

<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>EVERETT &amp; MARY E MARTINEZ,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 49427</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on July 2, 2009 James R. Meurer, Louesa Maricle and Sondra W. Mercier presiding. Petitioner, Everett Martinez, appeared pro se. Respondent was represented by David V. Cooke, Esq. Petitioners are protesting the 2007 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1021-1031 21<sup>st</sup> Street, Denver, Colorado  
(Denver County Schedule No. 02342 33 009 000)**

The subject is a 2,234-square-foot vacant retail building located on a 12,532-square-foot site. A portion of the site is rented for parking.

Petitioners are requesting a 2007 actual value of \$482,520.50 for the subject property based on a land value of approximately \$38.50 per square foot. Petitioners extrapolated the assessor’s assigned land value from improved sales to derive a value below that indicated by Respondent’s actual land sales. Petitioners contend that Respondent has not given consideration to the specific problems associated with the subject location including the proximity to homeless shelters, vagrancy and lack of parking.

Respondent presented the following indicators of value:

Market:	\$625,300.00
Cost:	\$628,800.00
Income:	\$587,300.00

Respondent derived a market-adjusted cost value for the subject property of \$628,800.00. Respondent analyzed four land sales that were purchased for the land value, with values of \$42.36 to \$58.40 per square foot, a median of \$52.10 and a mean of \$51.24 per square foot. Respondent concluded to a land value at \$50.00 per square foot, indicating that all four sales were believed to be similar to the subject for terrain, zoning and size. Total land value was concluded at \$626,600.00. Respondent concluded that the current building provided only an interim use for the subject, with redevelopment of the site as the highest and best use. Based on the condition of the subject, Respondent assigned a value for the improvements of \$1.00 per square foot or \$2,200.00.

Based on the market approach, Respondent presented an indicated value of \$140.00 per square foot for the building plus \$50.00 per square foot for excess land area of 6,250 square feet for a total value of \$625,300.00 (rounded) for the subject property.

Respondent presented five comparable sales ranging in sales price from \$108.70 to \$179.62 per square foot. No quantitative adjustments were made to the comparable sales. Respondent concluded to a value below the middle of the range for the subject.

Respondent used the income approach to derive a value of \$587,300.00 for the subject property. Respondent applied a modified gross rental rate of \$10.00, deducting a 10% vacancy and collection loss, and an additional 15% for operating expenses. The resulting net operating income was capitalized at an overall rate of 9.0%, resulting in a value to the building of \$189,900.00 (rounded). Respondent concluded to a net annual income of \$35,770.00 for the 30 parking spaces believed to be excess to the use of the building. This parking is most desirable during Rockies MLB home games. A capitalization rate of 9.0% was applied to this income as well, resulting in a value of \$397,400.00 (rounded) for the excess parking area.

Respondent assigned an actual value of \$628,800.00 to the subject property for tax year 2007, but is recommending a reduction to \$625,000.00 generally reflecting the concluded land value.

Petitioners presented sufficient probative evidence and testimony to prove that the tax year 2007 valuation of the subject property was incorrect. The Board is convinced that the value of the subject was generally equal to land value, with little additional value attributable to the improvements. Respondent presented four land sales, ranging from \$42.36 to \$58.40 per square foot. The Board is convinced that sites located closest to the ballpark area would be of higher value than the subject. Based on Respondent's Land Sale 3, the Board places the value of the subject site at \$42.36 per square foot or \$530,855.00, with a value of \$2,200.00 given to the improvements, resulting in a total value of \$533,055.00 for the subject.

**ORDER:**

Respondent is ordered to reduce the 2007 actual value of the subject property to \$533,055.00.

The Denver County Assessor is directed to change his/her 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 Section 24-4-106(11), C.R.S. (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 Section 24-4-106(11), C.R.S. (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).

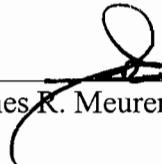
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

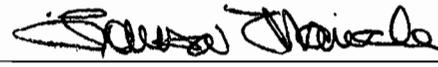
Section 39-8-108(2), C.R.S.

DATED and MAILED this 20<sup>th</sup> day of August 2009.

**BOARD OF ASSESSMENT APPEALS**

  
\_\_\_\_\_

James R. Meurer

  
\_\_\_\_\_

Louesa Maricle

  
\_\_\_\_\_

Sondra W. Mercier

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

  
\_\_\_\_\_

Heather Flannery

