

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FIRSTBANK HOLDING COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 50342</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on November 19, 2009 Diane M. DeVries and Lyle D. Hansen presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**9205 South Broadway, Highlands Ranch, Colorado
(Douglas County Schedule No. R0397203)**

The subject property is a one-story commercial branch bank building occupied by FirstBank of Littleton. The building improvements consist of a brick structure with 4,112 square feet of gross building area, as reported by Respondent. The building has a drive-up ATM facility and is situated on a 1.272 acre commercially zoned lot with a total of 63 paved parking spaces. The property is situated in a retail center anchored by a large grocery store chain.

Petitioner presented the following indicators of value:

Market:	N/A
Cost:	\$1,259,581.00
Income:	\$ 895,300.00

Petitioner's witness testified that there were insufficient comparable sales to be able to conclude a value indication by the market approach.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,259,581.00.

Petitioner concluded a basic structure cost of \$375,795.00, accrued depreciation of \$26,306.00, miscellaneous cost for asphalt paving of \$35,200.00, and land value based upon three comparable land sales of \$874,892.00, resulting in a value indication by the cost approach of \$1,259,581.00.

Petitioner presented an income approach to derive a value of \$895,300.00 for the subject property.

Petitioner concluded a rental rate of \$19.94 per square foot, a vacancy and collection loss of 5%, a management fee of 4%, and reserves for replacement of 3%. Petitioner applied an overall capitalization rate of 8% to derive a value indication by the income approach of \$895,300.00.

Petitioner is requesting a 2008 actual value of \$895,300.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$1,961,423.00
Cost:	\$1,538,274.00
Income:	\$1,511,844.00

Based on the market approach, Respondent presented an indicated value of \$1,961,423.00 for the subject property.

Respondent presented five comparable sales ranging in sales price from \$1,730,000.00 to \$3,000,000.00 or \$225.00 to \$687.00 per square foot for the real property and in size from 3,552 to 13,358 square feet. After adjustments were made, the sales ranged from \$250.00 to \$618.00 per square foot. Petitioner concluded an indicated value of \$350.00 per square foot or \$1,439,200.00.

Respondent's witness testified that the mean land-to-building ratio for a bank is 10.94:1, based on a survey of 43 bank properties which showed a range from 2.67:1 to 19.04:1. The mean indicated for other retail properties is 4.67:1, with a range from 1.35:1 to 9.33:1 based on an analysis of 76 retail properties. Respondent concluded that with a 13.47:1 land-to-building ratio, the subject had excess land that could be used for expansion of the building for retail use. Respondent calculated that 30,719 square feet of the subject site was excess, and added \$522,223.00 to the market approach based on the concluded land value of \$17.00 per square foot. This amount added to the \$1,439,200.00 value conclusion by the market approach resulted in a total indicated value of \$1,961,423.00.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,538,274.00.

Respondent presented five comparable land sales ranging in sales price from \$1,000,000.00 to \$1,475,000.00 or \$15.87 to \$20.86 per square foot and in size from 55,583 to 92,961 square feet. After adjustments were made, the sales ranged from \$17.00 to \$19.00 per square foot. Respondent concluded an indicated value of the land at \$17.00 per square foot or \$941,647.00.

Respondent concluded a building value of \$634,034.00 that included bank trade fixtures. Respondent deducted \$81,500.00 for bank trade fixtures, additional costs of \$76,254.00, and total depreciation of \$32,161.00. Depreciated value of the improvements was concluded at \$596,627.00. The addition of land value of \$941,647.00 resulted in an indicated value by the cost approach of \$1,538,274.00.

Respondent used the income approach to derive a value of \$1,496,765.00 for the subject property. Respondent concluded a rental rate of \$20.00 per square foot, a vacancy and collection loss of 5%, and operating expenses of 5%, resulting in a net operating income of \$74,222.00. Respondent applied an overall capitalization rate of 7.5% resulting in a value indication of \$989,621.00. Respondent added the value of the excess land of \$522,223.00 resulting in a value indication by the income approach of \$1,511,844.00.

Respondent assigned an actual value of \$1,390,000.00 to the subject property for tax year 2008.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2008 valuation of the subject property was incorrect. While the cost approach is given some weight, the Board finds the income approach to be the best reflection of value based on testimony of both parties. Petitioner placed great reliance on BOMA office data for rental rate and vacancy. The Board found Respondent's rental rate and capitalization rate to be more specific to the Douglas County market; therefore, the greatest reliance is given to Respondent's income approach.

Respondent contends that because there is a lack of sales and rental data for bank properties, data for retail properties must be applied and adjusted. Respondent applied a 6:1 land-to-building ratio to the subject, adjusting the values indicated in the market and income approaches to reflect the ability for a retail user to expand the property. Further, Respondent's analysis indicated that banks had land-to-building ratios as high as 19.04:1 with a mean of 10.94:1 and a median of 10.47:1. The subject has a land-to-building ratio of 13.47:1.

The Board finds that the reasonable future use of the subject is the current use as a branch bank facility. Respondent's valuation as a retail property with land for expansion is highly speculative. No evidence or testimony was presented to suggest a change from the current use. In *Board of Assessment Appeals v. Colorado Arlberg Club*, 762 P.2d 146, 153 (Colo. 1988), the Colorado Supreme Court held that "reasonable future use is relevant to a property's current market value for tax assessment purposes." The Court also held that "speculative future uses cannot be considered in determining present market values." *Id.* at 154. More importantly, the actual land-to-building ratio of the subject was well within the range shown. Deducting the adjustment for excess land, the value indicated by the revised income approach is \$989,621.00.

PGI (Potential Gross Income)	4,112	\$20.00	\$82,240
Vacancy	5.0%		(4,112)
EGI (Effective Gross Income)			\$78,128
Expenses	5.0%		(3,906)
			\$74,222
OAR (Overall Rate)	7.5%		\$989,621
Plus Excess Land			\$ ---
			\$989,621

The Board concludes that the 2008 actual value of the subject property should be reduced to \$989,621.00.

ORDER:

Respondent is ordered to reduce the 2008 actual value of the subject property to \$989,621.00.

The Douglas 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).

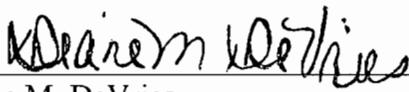
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

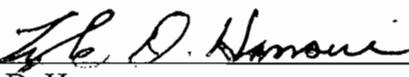
Section 39-8-108(2), C.R.S.

DATED and MAILED this 8th day of January 2010.

BOARD OF ASSESSMENT APPEALS

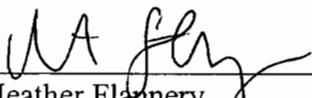


Diane M. DeVries



Lyle D. Hansen

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



Heather Flannery

