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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THE PHILLIP & HELEN SCHNEIDER 1986 TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>MONTROSE COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 50457</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on June 24, 2009, Karen E. Hart and Diane M. DeVries presiding. Fred Schneider, trustee, appeared on behalf of Petitioner. Respondent was represented by Carolyn Clawson, Esq. Petitioner is protesting the 2008 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**16611 and 16637 Highway 550, Montrose, Colorado
(Montrose County Schedule No. R0019701)**

The subject property consists of 9.098 acres of land along Highway 550 in Montrose with four buildings. It is irregular in shape, zoned B-3. Petitioner believes that the current use and condition of the subject property should be used in valuing the subject.

Petitioner went into great detail on the tax history of the subject property and surrounding properties for the past ten years. Petitioner testified that all three approaches, cost, market and income, must be used in valuing the subject property.

Petitioner argued that Respondent’s comparable land sales were not comparable to the subject property. For example, the Walgreens and Home Depot sites in Montrose sold for speculative use as development of big box stores.

Petitioner did not provide the Board with any cost figures.

Petitioner presented the following indicators of value:

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| Market: | \$985,000.00 |
| Income: | \$795,000.00 |

Based on the market approach, Petitioner presented an indicated value of \$985,000.00 for the subject property. Petitioner presented one sale of 27 acres that sold January 20, 2006 for \$985,000.00. No adjustments to the sale were made.

Petitioner presented rough actual income of \$63,900.00 for 2007 and 2008; income for 2005 and 2006 was less. Petitioner used an 8% capitalization rate to derive a 2008 actual value of less than \$795,000.00 for the subject property.

Petitioner is requesting a 2008 actual value of the subject property between \$795,000.00 and \$1,000,000.00.

Respondent presented the following indicators of value:

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| Market: | \$1,719,520.00 raw land value |
| Cost: | \$101,130.00 for four buildings |
| Income: | n/a less than raw land value |

Respondent used a state-approved cost estimating service, Marshall Valuation Service, to derive a market-adjusted cost value for the subject property. Respondent's replacement cost new (RCN) on Building 1, warehouse, class D, type low was \$90,945.00. Using an 80% depreciation, Respondent derived a 20% good value of \$18,190.00. The RCN on Building 2, service garage, class S, type average, was \$170,112.00. Respondent used an 80% depreciation arriving at a 20% good value of \$34,020.00. The RCN on Building 3, warehouse, class S, type average was \$143,755.00. Using an 80% depreciation, Respondent arrived at a 20% good value of \$28,750.00. The RCN on Building 4, office, class D, type average was \$100,835.00. Using 80% depreciation, Respondent arrived at a 20% good value of \$20,170.00. Respondent concluded to a total replacement cost new less depreciation of \$101,130.00 for the improvements located on the subject property.

Respondent provided six comparable sales of vacant land ranging in size from 0.84 acres to 36.870 acres and in sales prices from \$477,900.00 to \$4,500,000.00. Adjustments were made for time, size, shape, frontage and other which included assemblage and subdivided, arriving at a median sale price of \$4.97 per square foot and a mean of \$5.37 per square foot. This analysis supports the \$4.34 per square foot, for 396,309 square feet, to derive \$1,719,520.00 for the raw land.

Respondent did not provide an income approach since Respondent's witness believed that it would result in a below raw land value.

Respondent assigned an actual value of \$1,834,926.00 to the subject property for tax year 2008. Respondent is recommending a 2008 actual value of \$1,820,650.00 with \$101,130.00 allocated to the improvements and \$1,719,520.00 allocated to the land.

Petitioner provided the Board with the rough actual income and expenses for the subject property, and using an 8% capitalization rate derived a value less than \$795,000.00. Respondent did not consider the income approach since it is well below raw land value. The Board agrees.

Petitioner provided one sale to the Board for consideration. Parcels have sold in the area and subsequently been developed; these sales provide a good land value indication for the subject. Respondent used sales that occurred from June 2002 through February 2006. Respondent valued the land at \$4.34 per square foot, below the median and the mean. Although two of Respondent's sales occurred prior to the 18-month base period (*see* Section 39-1-104(10.2)(d), C.R.S.), the remaining comparable sales support Respondent's concluded value per square foot. The Board concurs with Respondent's raw land value conclusion. Respondent used approved cost manuals in valuing the improvements and depreciated the improvements to 20% good. The Board concurs with Respondent's concluded value for the improvements on the subject property.

Sufficient probative evidence and testimony was presented to prove the subject property was incorrectly valued for tax year 2008. Respondent valued the subject property with the best information available. The Board agrees with Respondent's recommended value reduction.

Petitioner argued that the subject property should be valued as three separate parcels. The Board finds it is reasonable to conclude they would be marked and sold together, and Respondent properly valued as one property.

The Board concludes that the 2008 actual value of the subject property should be reduced to \$1,820,650.00.

ORDER:

Respondent is ordered to reduce the 2008 actual value of the subject property to \$1,820,650.00.

The Montrose 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 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 21st day of October 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Diane M DeVries

Diane M. DeVries

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

