

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CCA PROPERTIES OF AMERICA, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>HUERFANO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket Nos.: 48067 & 50825</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 23, 2009, Karen E. Hart and Lyle D. Hansen presiding. Petitioner was represented by Kenneth S. Kramer, Esq. Respondent was represented by Garrett Sheldon, Esq. Petitioner is protesting the 2007 and 2008 actual values of the subject property.

The Board consolidated Docket Nos. 48067 and 50825.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**304 Ray Sandoval Street, Walsenburg, Colorado
Huerfano County Schedule No. 44541**

The subject is the Huerfano County Correctional Facility. The improvements consist of a total of five buildings completed in 1997 and 1998. Total building area is approximately 200,000 square feet. The improvements are rated as Class “C” quality building construction consisting of concrete block walls with built-up flat roofs. Construction quality and condition of improvements are rated as average. The correctional facility has a total of 778 beds consisting of 752 offender housing beds, 22 segregated beds, and 4 medical containment beds. The correctional facility has administrative, kitchen/dining, medical, and education areas. Additional areas include a gymnasium, greenhouse, outside recreational areas, and loading areas. Site improvements include a 12-foot high perimeter fence, 10-foot high cross fence, razor wire, 12-foot high chain-link fence, asphalt basketball courts, sliding gates, asphalt paving, guard towers, in-ground sensors, mounted cameras, and site landscaping.

The improvements are situated on an 81.66-acre site that is zoned CDC for Criminal Detention Center.

Petitioner presented the following indicators of value:

Market:	\$20,700,000.00 to \$22,600,000.00
Cost:	\$17,700,000.00
Income:	\$18,400,000.00

Based on the market approach, Petitioner presented an indicated value of \$20,700,000.00 to \$22,600,000.00 for the subject property.

Petitioner presented eight comparable sales ranging in sales price per bed from \$32,963.00 to \$49,091.00 and in number of beds from 270 to 1,172. After adjustments were made, the sales ranged from \$27,500.00 to \$30,000.00 per bed.

Petitioner used a state-approved cost estimating service in the cost approach to derive a market-adjusted cost value for the subject property of \$17,700,000.00.

Petitioner determined the subject's land value using land sales from Huerfano County. Petitioner concluded to \$1,500.00 per acre for the 43.4 acres containing the correctional facility improvements (\$65,100.00), and \$1,000.00 per acre for the remaining 38.26 acres of fallow or agricultural land (\$38,400.00), for a total land value of \$103,500.00

Petitioner concluded a replacement cost estimate for hard costs of \$36,896,000.00, entrepreneurial profit of \$3,689,600.00, other soft costs of \$5,534,400.00, total accrued depreciation of \$28,541,008.00 of which \$19,117,008.00 was attributable to external obsolescence, resulting in a replacement cost new less depreciation of \$17,578,992.00. Petitioner concluded a value by the cost approach of \$17,700,000.00.

Petitioner presented an income approach to derive a value of \$18,400,000.00 for the subject property.

Petitioner concluded a per diem rate of \$51.00 per bed for the 752 rated beds for contract revenue of \$13,998,480.00; commissary sales of \$225,000.00; other income of \$16,000.00; a vacancy rate of 5% or \$699,924.00; less expenses of \$39.94 per diem/per bed or \$10,962,731.00; less reserves at \$0.10 per square foot or \$20,000.00; less income for furniture, fixtures, and equipment of \$154,160.00; less income for starting costs of \$64,350.00; and an overall capitalization rate of 12.707335%. Petitioner concluded to a net operating income of \$2,338,315.00 and a value by the income approach of \$18,400,000.00.

Petitioner is requesting a 2007 and 2008 actual value of \$19,000,000.00 for the subject property.

Respondent presented the following indicators of value:

Market: \$31,100,000.00
Cost: \$36,700,000.00
Income: \$31,000,000.00

Based on the market approach, Respondent presented an indicated value of \$31,100,000.00 for the subject property.

Respondent presented three comparable sales, however Sale 3 occurred beyond the five-year data collection period and could not be considered. The remaining two sales ranged in sales price from \$27,740,000.00 to \$46,800,000.00 and in bed count from 700 to 1,170 beds. The rate per bed of the comparable sales indicated a range for the property of \$28,751,768.00 to \$31,120,000.00.

Respondent used a state-approved cost estimating service in the cost approach to derive a market-adjusted cost value for the subject property of \$36,700,000.00.

Respondent separated the total parcel of 81.66 acres into primary land of 20.0 acres where the correctional facility improvements are located, and 61.66 acres of excess land.

Respondent presented three comparable land sales to value the primary land. The three sales ranged in sales price per acre from \$1,649.62 to \$4,303.28 and in size from 19.52 to 60.62 acres. After adjustments were made, the sales ranged from \$2,474.00 to \$4,734.00 per acre. Petitioner concluded a land value of \$2,750.00 per acre for a total land value for the 20.0 acres of primary land of \$55,000.00.

Respondent presented the same three comparable land sales to value the excess land. The sales ranged in sales price per acre from \$1,649.62 to \$4,303.28 and in size from 19.52 to 60.62 acres. After adjustments were made, the sales ranged from \$2,062.00 to \$3,658.00 per acre. Petitioner concluded a land value of \$2,100.00 per acre for a total land value for the 61.66 acres of excess land of \$130,000.00.

Total land value for the primary land and the excess land was \$185,000.00.

Respondent concluded a replacement cost estimate for the five building improvements and for on-site improvements of \$35,989,453.00, indirect costs of \$1,439,578.00, entrepreneurial profit of \$1,871,452.00, and total accrued depreciation of \$2,778,405.00, resulting in a replacement cost new less depreciation of \$36,522,078.00. Respondent concluded a value by the cost approach of \$36,700,000.00.

Respondent used the income approach to derive a value of \$31,000,000.00 for the subject property.

Respondent concluded a per diem rate of \$50.28 per bed for the 778 total beds; concession income at 2% of per diem income; a vacancy rate of 5%; less operational expenses of \$38.10 per diem/per 778 beds; less insurance at \$0.20 per square foot; less reserves at \$0.15 per square foot; less income to personal property; and an overall capitalization rate of 10.25%. Petitioner concluded potential gross income of \$14,563,572.00; a vacancy allowance of \$728,178.00; expenses at

\$10,611,801.00; and a net operating income of \$3,173,592.00. Respondent added excess land value of \$129,486.00 and concluded a value by the income approach of \$31,000,000.00.

Respondent assigned an actual value of \$30,077,368.00 to the subject property for tax year 2007 and 2008.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2007 and 2008 valuation of the subject property was incorrect.

The subject was designed to function as a private correctional facility. That design has a total of 778 beds of which 752 are offender housing or "rated" beds, 22 are segregated beds, and 4 are medical containment beds. The purpose of the segregated beds is to confine prisoners to individual cells for security and safety. The Board concludes that since these 22 segregated beds are reserved for that purpose, they cannot be included in deriving potential gross income. The Board agrees with Petitioner that the 752 rated beds must be used to determine potential gross income rather than using the total 778 beds as utilized by Respondent.

Petitioner's per diem conclusion was \$51.00 per bed. Respondent's per diem conclusion was \$50.28 per bed. The Board concludes a per diem for the 752 rated beds at an approximate mid-point or \$50.65. The Board concludes commissary income at \$250,000.00 and other income at \$16,000.00. The Board concludes potential gross revenues at \$14,168,412.00.

Both Petitioner and Respondent agreed on a five percent vacancy rate. For the year of 2005, Petitioner indicated an occupancy rate of 96.04%. For the period from January through June of 2006, Petitioner indicated an occupancy rate of 98.29%. Respondent indicated an occupancy rate of 93.42% for 2005 and the first half of 2006, and an occupancy rate of 95.09% for January through June of 2006. The Board concludes an occupancy rate of 98.0%, resulting in a vacancy rate of 2.0% or \$283,368.00.

Petitioner concluded a total of \$11,201,241.00 for expenses and deductions for reserves; income for furniture, fixtures, and equipment; and income for starting costs. Respondent concluded a total of \$10,661,801.00 for operating expenses, management, insurance, replacement reserves, and income to personal property. Both Petitioner and Respondent excluded real estate taxes from operating expenses but included the taxes in the combined capitalization rate. The Board concludes that starting costs should not be included as an operating expense for the real property value but are more related to the business component of the subject. Petitioner's total operating expenses less starting costs is \$11,136,891.00. The Board concludes operating expenses at an approximate mid-point or \$10,900,000.00.

Petitioner presented an overall capitalization rate of 10.5% plus an additional 2.207335% property tax rate. Respondent presented an overall capitalization rate of 8.25% plus an additional 2.0% property tax rate. Petitioner indicated that the Crowley Correctional Facility in Olney Springs, Colorado sold in January of 2003 and had an indicated overall capitalization rate of over 11%. The Board concludes a capitalization rate of 8.5%. The Board adds an additional 2.207335% property tax rate to conclude an overall capitalization rate of 10.707335%. The Board concludes a net income of \$2,985,044.00 and a value by the income approach of \$27,878,000.00.

Petitioner placed the most weight upon the income approach as an indication of value for the subject. Petitioner indicated that the cost approach was a support test of value but placed less reliability upon this approach because of the large amount of economic/external obsolescence that he concluded was present. Petitioner indicated that the market approach was less reliable because of the limited sales data.

Respondent indicated that the cost approach was considered to be a high indicator of value for the subject, that the market approach was a good indicator of value, and that the income approach was considered to be a good indicator of value.

The Board finds that the income approach provides the best indicator of value for the subject property. The Board concludes that the 2007 and 2008 actual value of the subject property should be reduced to \$27,878,000.00.

ORDER:

Respondent is ordered to reduce the 2007 and 2008 actual values of the subject property to \$27,878,000.00.

The Huerfano 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 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 6th day of April 2009.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

APR 06 2009

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

Ht flry

Heather Flannery

