

<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>STOR-N-LOCK PARTNERS #20, LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 52177</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 4, 2010, Louesa Maricle and Debra A. Baumbach presiding. Petitioner was represented by Alan R. Jones, Managing Member. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**12110 East 104<sup>th</sup> Avenue, Commerce City, Colorado  
Adams County Schedule No. R0169115**

The subject property is a newly constructed self-storage facility consisting of 84,488 gross square feet with 566 units, living quarters, and office area. The improvements are situated on 4.39 acres and opened in May of 2007.

Petitioner presented an indicated value of \$1,384,788.00 for the subject based on the income approach.

Petitioner contends that the income approach is the most appropriate method to value the subject property. Mr. Jones testified that most investors are interested in the actual income, profit and loss statements, location, construction style, functional utility, and unit mix for a specific property when considering a purchase.

Mr. Jones relied on the income approach to value the subject property. He used the pro forma income analysis used by Respondent as the starting point in his analysis. In determining a vacancy rate, Mr. Jones based his analysis on Respondent's comparable rent properties and the subject property. Petitioner contends the correct methodology to determine vacancy rate is to multiply the vacancy percentage shown for each property including the subject property by the building square footage, add the results together, and divide by the total square footage for a weighted average.

Mr. Jones correlated to a vacancy rate of 26% and rounded up to 30% in his income analysis. He used a net leasable area of 75,455 square feet at a market rate of \$9.52, applied 30% vacancy and collection loss, and deducted expenses of \$231,015.00, for a stabilized net operating income of \$271,817.00. A capitalization rate of 14.40% was applied to derive a value of \$1,887,620.00. Petitioner then applied an additional adjustment for excess vacancy, of \$502,832.00, for a total indicated value for the subject property of \$1,384,788.00.

Mr. Jones testified that the correct way to value the property is to capitalize the actual income for the subject. In 2008, the subject had a net loss so the value really should be \$0, but because he knows Respondent would not accept that, he thinks his analysis is more accurate than Respondent's analysis.

Mr. Jones testified that he does not believe that Respondent sufficiently addressed the excessive vacancy of the subject property taking into consideration the slow lease up. Petitioner's analysis addresses the actual vacancy of the subject property. If there were a buyer, the actual income would be the determinate in the purchase price. The cost and market approach are not appropriate methods to establish a value for the subject property.

Petitioner is requesting an actual value of \$1,384,788.00 for the subject property for tax year 2009.

Respondent presented the following indicators of value:

Market:	\$1,883,400.00
Cost:	\$3,305,332.00
Income:	\$1,884,000.00

Respondent's witness, Mr. Trevor Hammers, with Adams County Assessor's Office, testified that he placed most weight on the income approach to value the subject property. Both the cost and market approach were performed however, minimal weight was placed on both of these approaches as they are not reflective of the market.

Based on the market approach, Respondent presented three comparable sales for self-storage facilities. The comparable sales selected ranged in sale price from \$1,059,500.00 to \$2,550,000.00. The price per square foot ranged from \$35.73 to \$46.69. There was minimal weight placed on this approach and no adjustments were made.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$3,305,332.00. A gross cost of \$30.40 per square foot was used and \$3.07 per square foot was used for paving, concrete, and landscaping. The subject is new construction and no depreciation was applied.

Respondent used the income approach to derive a value of \$1,884,000.00, rounded, based on a pro forma income analysis. Respondent used a net leasable area of 75,455 square feet and a rental rate of \$9.52 per square foot. Respondent applied a 20% vacancy and collection loss and a 40.20% expense ratio. A cap rate of 14.40% was applied for an indicated value of \$2,386,457.00. An additional adjustment attributed to the subject's high vacancy was made. Respondent applied a 70% vacancy rate to the subject's net leasable area of 75,455 square feet at a market rent of \$9.52 per square foot for a rent loss of \$502,832.00. This resulted in an indicated value of \$1,883,625.00 with the rent adjustment.

Respondent assigned an actual value of \$1,884,000.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was correct.

The Board is not convinced that Petitioner's methodology in determining a stabilized market vacancy rate was supported by adequate market data. Petitioner relied on the vacancy for Respondent's five rent comparables and the subject's actual vacancy to support its conclusion. The Board believes there was insufficient data provided as to how the rates were reported and whether the rates were based on the number of units or on a square foot basis.

The Board agrees the subject is affected by higher vacancy because it is a new facility and it should be accounted for in the valuation. However, the Board is not convinced that Petitioner's income approach was appropriately calculated. Petitioner correlated to a higher stabilized vacancy rate as a result of including the subject's high vacancy in the analysis. The Board does not agree it is appropriate appraisal methodology to include the subject's atypically high vacancy to estimate the stabilized rate used to derive net operating income that is capitalized in perpetuity without also adjusting the market derived capitalization rate. The Board concludes that Petitioner's use of an atypically high stabilized vacancy rate and a lump sum deduction from the initial indication of value for excess rent loss overstates the impact of the vacancy at the subject property on market value.

The Board concludes Respondent's income approach methodology was correct. Respondent's analysis accounted for the high vacancy in the subject property in the estimate of value.

The Board affirms Respondent's actual value of \$1,884,000.00 for the subject property for tax year 2009.

**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 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 3<sup>rd</sup> day of June 2010

**BOARD OF ASSESSMENT APPEALS**



Louesa Maricle



Debra A. Baumbach

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

  
Heather Flannery