

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket No.: 52309 &
55875**

Petitioner:

BLC II, LLC,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 27, 2011, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Kendra Goldstein, Esq. and Barry J. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2009 and 2010 actual value of the subject property.

Dockets 52309 and 55875 were consolidated.

Subject property is described as follows:

**24112 E. Orchard Road, 23903 E. Prospect Avenue, 23963
E. Prospect Avenue and 24272 E. Prospect Avenue,
Aurora, Colorado
Arapahoe County Schedule Nos. 2071-19-1-01-002, 2071-
19-3-02-001, 2071-19-3-02-002 and 2017-19-4-01-004.**

The subject includes four free-standing, multi-tenant retail buildings that were completed in 2005. The buildings are part of the Southlands development, a 1.7-million square foot lifestyle mall. The buildings range in size from 9,420 to 12,370 square feet with a total of 44,122 rentable square feet. The buildings are on separate parcels and operate independently.

Petitioner is requesting an actual value of \$7,200,000.00 for the four subject properties for tax years 2009 and 2010. Respondent assigned a value of \$10,671,120.00 for the four subject properties for tax years 2009 and 2010.

Petitioner presented the following indicators of value:

Cost: \$6,910,000.00
 Market: \$7,721,000.00
 Income: \$7,280,000.00

Petitioner’s witness, Mr. Steve Letman with Consultus Asset Valuation, Inc., presented all three approaches to value based on a square footage of 44,122 for all four buildings combined. Petitioner contends that Respondent did not give adequate consideration to the high mill levy when analyzing the value.

Mr. Letman presented eight comparable sales including the 2005 sale, which included the subject. They ranged in sale price from \$1,850,000.00 to \$27,250,000.00 and in size from 7,000 to 68,075 square feet. The sales indicated a per square foot price range of \$143.00 to \$400.00. Given that he gave the greatest consideration to Sales 3, 5 and 6, Mr. Letman concluded to a value of \$175.00 per square foot for the subject, equal to a value of \$7,721,000.00, rounded.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$6,910,000.00. Mr. Letman contends that the subject is affected by external obsolescence resulting from a weak economy, high mill levy and a lack of population growth as projected.

Petitioner presented an income approach to derive a value of \$7,280,000.00 for the subject property. Mr. Letman calculated the income approach based on a rental rate of \$22.00 per square foot, reimbursement of \$12.93 per square foot, vacancy of 15%, expenses of \$7.49 per square foot, deduction for reserves at \$0.75 per square foot and a tax loaded capitalization rate of 13%.

Respondent presented an indicated total value of \$12,300,000.00, supported by the following indicators:

APN	2071-19-1-01-002	2071-19-3-02-001	2071-19-3-02-002	2071-19-4-01-004
Address:	24112 E Orchard	23903 E Prospect	23963 E Prospect	24272 E Prospect
Cost:	\$2,620,000.00	\$3,525,000.00	\$3,440,000.00	\$2,650,000.00
Market:	\$2,765,000.00	\$3,400,000.00	\$3,375,000.00	\$2,590,000.00
Income:	\$3,150,000.00	\$3,880,000.00	\$3,850,000.00	\$2,950,000.00

Respondent’s witness, Mr. Marcus Scott, Arapahoe County Assessor’s Office, valued each of the four subject buildings separately; however, he relied on a single data set for each approach. Respondent presented five comparable sales ranging in sale price from \$3,650,000.00 to \$6,900,000.00 and in size from 13,258 to 15,765 square feet. Values ranged from \$272.12 to \$497.84 per square foot. Mr. Scott placed the greatest reliance on Sales 1, 3 and 4, with an indicated range in value of \$272.12 to \$286.12 per square foot, concluding to a value of \$275.00 per square foot for each of the buildings.

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for each building separately. Individual land values (per square foot) were assigned to each site.

Respondent used the income approach to derive an individual value for each of the subject buildings. Mr. Scott concluded to a rental rate of \$30.00 based on actual lease rates for the subject buildings, along with an analysis of rents in three centers believed to be similar to the subject. Mr. Scott deducted vacancy and collection loss of 10% and owners expenses of 10%, capitalizing the net operating income indicated for each property at 7.75%. Mr. Scott’s conclusion of the capitalization rate was based on an analysis of alternative investments, investor surveys and rates indicated by actual sales.

Respondent concluded to values above the values assigned, shown as follows:

APN	2071-19-1-01-002	2071-19-3-02-001	2071-19-3-02-002	2071-19-4-01-004
Address:	24112 E Orchard	23903 E Prospect	23963 E Prospect	24272 E Prospect
Concluded Value:	\$2,700,000.00	\$3,500,000.00	\$3,500,000.00	\$2,600,000.00
Assigned Value:	\$2,419,200.00	\$2,980,800.00	\$2,980,800.00	\$2,290,320.00

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax years 2009 and 2010.

The Board was convinced that the actual base year sale, which included the subject buildings, was not a reliable indicator of value for the individual buildings.

The Board did not agree with Petitioner’s valuation of the four subject buildings “in bulk.” The Board was convinced that the buildings could be sold individually and that they operated independently. Insufficient evidence was presented to support a correlation between a high mill levy and a lower value. The Board was convinced that buildings similar to the subject typically are leased on a net basis, with all expenses paid by the tenant, and that Petitioner’s expense reimbursement and tax load methodology, used in the income approach, was not representative of market.

The Board found Respondent’s cost and market approaches to be supported by land and building sales that were comparable to the subject for size, quality and investment grade. Based on data presented by both parties, the Board was convinced that the appropriate rental rate for the subject fell within a range of \$28.00 to \$32.00 per square foot. While Respondent applied a rate of \$30.00 per square foot to the subject, a lower rate of \$28.00 does not result in a value below that already assigned to the subject buildings. Respondent presented sufficient market data to support the capitalization rate, vacancy and expense rate used.

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 25 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Sondra W. Mercier

Sondra W. Mercier

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

Amy Bruiks

Amy Bruiks

