

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>CAPITAL AUTOMOTIVE HOLDINGS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ADAMS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53400</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals (BAA) on September 15, 2010, Sondra W. Mercier and MaryKay Kelley presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**7300 Broadway, Denver, Colorado
Adams County Schedule No. R0070646**

The subject property is an automobile dealership built in 1997 on a 5.43 acre site. Improvements include a showroom, offices, service garage, parking garage, and surface parking. Reconfiguration of the Interstate 25 and U.S. Highway 36 interchange has impacted the dealership’s visibility and access and ensured that the parking lot will periodically flood.

Respondent assigned an actual value of \$5,177,900.00 for tax year 2009. Petitioner is requesting a value of \$1,620,153.00.

Based on the cost approach, Petitioner presented an indicated value for the subject of \$1,620,153.00. The witness adopted Respondent’s land value of \$631,172.00 and concluded to a new estimate for improvements of \$6,049,458.00, which reflected 27.5% physical depreciation for everything but the concrete, an inadvertent omission. The witness then applied a 35% external obsolescence to reflect an economic downturn in the automobile industry and a 45% physical obsolescence to reflect the impact of flooding on the business.

Based on the cost approach, Respondent presented an indicated value of \$5,280,000.00 for the subject property. The witness relied on the land value of \$631,172.00 which was concluded for tax years 2007 and 2008 by the BAA in its order issued April 28, 2009 under docket numbers 48632 and 50773 to reflect the negative impact of highway reconfiguration. He concluded to a replacement cost new of \$8,297,827.00 for improvements and applied a physical obsolescence of 18% and a rounded economic obsolescence of 26% based on the BAA's application of 27.5% for tax years 2007 and 2008, an application with which he agreed.

Respondent used the income approach to derive a value of \$5,500,000.00 for the subject property. The witness used a rental rate of \$9.13 per square foot, a vacancy rate of 15%, operating expenses of 10% of effective gross income, and an overall capitalization rate of 12%. He concluded to a value of \$5,500,000.00

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

The Board agrees that highway interchange reconfiguration has resulted in loss of value due to obstructed visibility, loss of convenient access, and potential flooding.

The Board finds that the cost approach is the best indication of value for the subject, a special use property.

Petitioner's witness incorrectly applied external (downturn in the industry) and physical (potential flooding) obsolescence to the total of replacement cost new and land. Depreciation estimates, in appraisal theory and practice, are considered a loss in value attributable to improvement value and not to land value.

Petitioner presented insufficient evidence to support the theory that an economic downturn in the automobile industry resulted in a decrease in real estate value for the subject.

The Board relies on Respondent's cost approach in estimating value for the subject property. It accepts the parties' conclusions of land value and is convinced that Respondent's obsolescence factors are supported and appropriately applied.

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 13th day of October 2010.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

MaryKay Kelley

MaryKay Kelley

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

Amy Bruins

Amy Bruins

