

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>D & J MEDICAL LLC,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53717</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 11, 2011 Gregg A. Near and Debra A. Baumbach presiding. Petitioner was represented by John D. England Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**410 S. Wilcox Street, Castle Rock, Colorado
Douglas County Schedule No. R0436684**

The subject is a single tenant medical office building with net rentable area of 10,627 feet. The building was completed in 1994 and is on a 1.428-acre site.

Petitioner is requesting an actual value of \$1,320,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$1,775,000.00 for the subject property for tax year 2009.

Petitioner presented the following indicators of value:

Market: No value developed
 Cost: No value developed
 Income: \$1,320,000.00

Petitioner's witness, Mr. Jack D. England, Manager of D & J Medical LLC, presented an income approach to derive a value of \$1,320,000.00. Mr. England relied on 15 comparable leases,

which he searched out within close proximity. The rents ranged from \$11.93 to \$25.14 per square foot based on a net basis and ranged in square feet from 176 to 2,184. Mr. England used a net rental rate of \$18.00 deducting \$6.00, indicating a gross rental rate of \$12.00.

Mr. England did not deduct for vacancy and collection loss, expenses or reserves for replacement and relied on his experience to derive a capitalization rate of 10%. Mr. England concluded to a value of \$1,320,000.00.

Mr. England contends the property suffers from deferred maintenance. The roof and cooling systems need to be replaced, and no updating has occurred since the purchase in 2001. There is approximately 1,500 square feet of unfinished area affecting the net area. The property has been mainly utilized as a single tenant medical office building with an urgent care facility, laboratory, and x-ray. There are several physicians occupying satellite space in conjunction with their primary practices located in other cities.

Petitioner contends Respondent has overvalued the subject by selecting superior sales in the market approach and did not adequately adjust for the differences. Petitioner also contends that Respondent incorrectly relied on multi-tenant lease and not single tenant leases to derive a market rental rate, which indicated a higher value for the subject property.

Petitioners are requesting a 2009 actual value of \$1,320,000.00 for the subject property for tax year 2009.

Respondent presented the following indicators of value:

Market: \$1,906,000.00
Cost: Not developed
Income: \$1,961,000.00

Respondent's witness, Mr. Mike Shafer, Certified General Appraiser, presented an indicated value of \$1,950,000.00 based on the income and market approaches to value.

Mr. Shafer presented four comparable sales ranging in sales price from \$1,182,900.00 to \$4,005,000.00 and in gross size from 5,920 to 17,287 square feet. Percentage adjustments were made for age difference, design and quality, condition and size for an indicated value of \$1,906,000.00.

Mr. Shafer testified he selected comparable sales that were all medical office facilities, shared similar physical characteristics, and were located within close proximity to the subject. Most weight was placed on the sales with urgent care facilities.

Mr. Shafer presented an income approach to derive a value of \$1,961,000.00 for the subject property. Mr. Shafer used a triple net rate of \$17.64 per square foot, based on an analysis of comparable multi-tenant medical office complexes in the area, and made an age adjustment. Mr. Shafer deducted vacancy and collection loss of 10% and owners expenses of 7%. A capitalization

rate of 8% was used based on an analysis of the Burbach and Associates investor survey of similar medical office properties.

Mr. Shafer testified only a limited physical inspection of the property could be done due to restrictions listed in the Health Insurance Portability and Accountability Act (HIPPA). The Assessor's Office had previously accounted for the subject's unfinished square footage. Respondent contends Petitioner's income analysis was flawed because no support was provided for the capitalization rate, and Petitioner did not provide any addresses or other information from the leases to support the rental rate used.

Respondent assigned an actual value of \$1,775,000.00 to the subject property for tax year 2009.

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

The Board found Respondent's market approach was largely supportable through its comparable sales and adjustments. However, the Board was not convinced Respondent's Sale 2 was sufficiently adjusted for differences in physical characteristics. The Board agrees with Petitioner that Respondent's Sale 2 had possibly been renovated accounting for a higher purchase price, which makes it superior to the subject and requires additional adjustments.

The Board did not agree with Petitioner's income approach methodology. The Board was presented with limited information on the types and terms of the comparable leases used. The Board could not determine a market rental rate. The capitalization rate was estimated based on Petitioner's experience, with no supporting data for the rate used. The Board did find that Petitioner's income approach was thorough enough because it did not include estimated vacancy and collection loss, expenses, or reserves for replacement.

The Board found Respondent's income approach to be the most reliable method in valuing the subject. Respondent presented a thorough analysis accounting for all factors required in a complete analysis whereas Petitioner only presented a partial analysis. The Board was convinced potential buyers are going to give most consideration to this approach in a decision to purchase. However, the Board was not convinced using only multi-tenant leases for comparison to a single tenant lease and adjusting for age difference gave a true indication of market rent. While there were differences between the parties in the capitalization used affecting the final estimated value, any adjustments made to the market rent and capitalization rate would not result in a lower value from the assigned value.

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 8 day of August 2011.

BOARD OF ASSESSMENT APPEALS

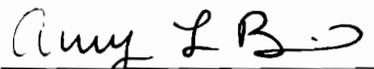


Gregg Near



Debra A. Baumbach

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



Amy Bruins

