

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MILLER FAMILY REAL ESTATE LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 55187</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 18, 2010, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Mr. Richard G. Olona, Esq. Respondent was represented by Mr. James Burgess, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Petitioner and Respondent stipulated to the exhibits and witnesses to be presented.

Subject property is described as follows:

**8303 W. Colfax Avenue, Lakewood, Colorado
Jefferson County Schedule No. 208764**

The subject is an automotive dealership, built in 1958 and 1963, with various improvements completed in 1978, 1988, and 2003. The subject, as described by Jefferson County, consists of four buildings, including:

- Building 1, which consists of a showroom (11,350 sq. feet), service center (13,925 sq. feet), and mezzanine (8,576 sq. feet),
- Building 2, which consists of a showroom (5637 sq. feet),
- Building 3, which consists of a service center (6,723 sq. feet), and
- Building 4, which consists of a service center/car wash (2,228 sq. feet).

Petitioner's Building (Bldg.) 1 and Bldg. 3 operate as a Volkswagen (VW) dealership. Bldg. 2 and Bldg. 4 are located on the same parcel and operate as a Kia dealership.

Petitioner is requesting an actual value of \$2,700,000.00 for the subject property for tax year 2009. Respondent assigned a value of \$5,138,400.00 for tax year 2009.

Petitioner presented the following indication of value:

Income:	Not applied
Cost:	\$2,700,000.00
Market:	Not applied

Petitioner contends Respondent improperly applied the cost approach by neglecting to consider downturns in automobile sales and the influence this has on auto dealerships. Petitioner also contends the rent has failed to include functional obsolescence relating to current standards for auto dealership design.

Petitioner's witness, Mr. Todd Stevens, chose not to present comparable land sales and relied upon the assigned land value from the County of \$7.00 per square foot.

Mr. Stevens presented the property improvements by pairing the year of construction with the square feet completed in that year, as follows:

<u>Year of Construction</u>	<u>Square Feet</u>
1958	6,757
1963	2,228
1964	8,190
2003	31,539

Mr. Stevens relied upon the Marshall Valuation Service as the source of his cost figures. For the VW dealership, the improvements are separated into sections, namely, Section I through Section V. All sections of the VW dealership are reported to be five years old except for the 8,190 square feet in Section IV, defined as service area, with a reported age of 44 years. The Kia dealership is separated into sections, namely, Section VI through Section VIII. All sections of the Kia dealership are reported to be five years old except for the 6,757 square feet in Section VI, with a reported age of 41 years.

The cost service is used to determine the base costs for these sections. Sections IV and VI (those sections that are 44 and 41 years old, respectively) are depreciated by 80%; the remaining sections (those sections that are five years old) are depreciated by 12.5%. Lump sum costs of \$87,175.00 are added to the time adjusted depreciated cost to determine a Reproduction Cost New Less Physical Depreciation (RCNLPD) of \$1,960,188.00. Mr. Stevens then applies a negative adjustment of 40% to the new portions of the showroom and service areas due to functional obsolescence caused by outdated design.

A further adjustment of 25% is applied to the reproduction cost less all relevant forms of depreciation attributed to the improvements. This adjustment recognizes the declines in the automobile industry and the subsequent losses in auto dealerships' sales.

A depreciated value for the site improvements is then added to the total to produce an improvement value of \$1,193,043.00. The land value determined by the County of \$1,561,000.00 (rounded) is then added to produce a final value by the cost approach of \$2,754,043.00, or \$2.7 million (rounded).

Respondent presented the following indication of value:

Income:	Not applied
Cost:	\$5,887,100.00
Market:	Not applied

Respondent contends the dealership is functional, so functional obsolescence should not be applied, and the County's application of the cost approach appropriately considers all the components of the property.

Respondent's witness, Ms. Darla K. Jaramillo, Certified General Appraiser of the Jefferson County Assessor's Office, presented four comparable land sales ranging in sale price from \$6.20 to \$7.51 per square foot and in size from 181,419 to 479,059 square feet. The comparable land sales were all adjusted upward between 15% to 40%, resulting in a range from \$8.11 to \$8.68 per square foot. After reconciling to \$8.50 per square foot, a value opinion of \$1,895,700 (rounded) was determined for the land.

Ms. Jaramillo included Bldg. 1 and Bldg. 3 within the VW dealership. Bldg. 1, including showroom and finished mezzanine, was depreciated by 6%; Bldg. 3 was given an effective year of construction of 1968 and depreciated by 32%. A value opinion of \$2,754,333.00 is derived after all forms of depreciation.

Bldg. 2 and Bldg. 4 comprise the Kia dealership. Bldg. 2 was depreciated by 6%. Bldg. 4 was given an effective year of construction of 1963 and depreciated by 74%. A value opinion of \$625,606.00 is derived after all forms of depreciation.

After the depreciated values of the improvements are added to the land value, Respondent concluded to a value of \$5,887,100.00, developed by use of the cost approach.

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

The Board was not convinced of Petitioner's economic and functional adjustments for depreciation. While Petitioner's exhibit of declining sales for the operator was persuasive, Respondent's witness testified to interviews with local and nearby dealerships that contradicted the trend indicated by Petitioner.

The Board was not convinced of the functional adjustment to the facilities constructed in 2003. The Board understands that automobile manufacturers require specific designs and sale quotas. It is not reasonable to presume that a building constructed to the manufacturer's standards only six years prior would become obsolete in such a short time.

The Board was also not responsive to Petitioner's analysis of the improvements and cost figures. The reproduction cost new for the service buildings appears unreasonably low and the physical depreciation applied does not adequately recognize significant costs of upgrades to roof, electrical and heating systems to meet the building codes in place at that time.

The Board was not convinced of the land value determined by Respondent. All the comparable sales reported were adjusted upward and, in some cases, adjusted so significantly they ceased to be realistic indicators. Further, the Board was not convinced that the use of dated sale transactions without recognition of clear declines in the market was appropriate.

The Board is dissatisfied with the use of the "Developer's Kit" to derive cost figures for the improvements, as the Board cannot determine the appropriateness of adjustments to the base unit costs.

Based upon the information provided, the Board has chosen to accept the estimate of the RCNLPD from Respondent of \$3,379,300.00. The Board has also chosen to reject the comparable sales provided by Respondent and apply the assigned land value of \$1,561,000.00. Therefore, the Board concludes that the 2009 actual value of the subject property should be reduced to \$4,940,300.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$4,930,000.00.

The Jefferson 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 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).

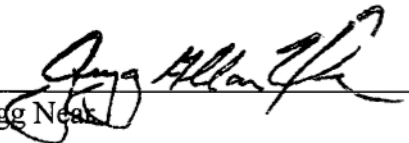
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

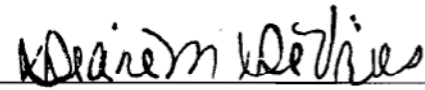
Section 39-8-108(2), C.R.S.

DATED and MAILED this 7 day of April 2011.

BOARD OF ASSESSMENT APPEALS



Gregg Neal



Diane M. DeVries

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



Amy Bruhns

