

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 55252

Petitioner:

BEAR LAND HOLDINGS, LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 26, 2011, Louesa Maricle and MaryKay Kelley presiding. Petitioner was represented by Mark W. Gerganoff, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Schedule No. 193121 was withdrawn from the petition by Petitioner.

Subject property is described as follows:

**11051 West I-70 Frontage Road, Wheat Ridge, Colorado
Jefferson County Schedule No. 193122**

The subject property consists of 8.716 acres with two improvements, a Chrysler showroom and service center built in 1999 and a Hummer showroom and service center built in 2006. The remainder of the site consists of asphalt parking with the exception of a fenced detention pond and two ditches running perpendicular across the site. A 75-foot public service easement with lattice towers and high power electric transmission lines bisects the site diagonally front to rear. The dealership is visible from Interstate 70 and is accessed by Kipling Street to the east and Ward Road to the west.

Petitioner is requesting an actual value of \$4,446,000.00 for tax year 2009. Respondent assigned an actual value of \$6,084,100.00.

Petitioner presented the following indicators of value:

Market:	N/A
Cost:	\$4,446,000.00
Income:	\$4,042,000.00

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$4,446,000.00.

Petitioner's witness, Patrick C. Sullivan, Certified General Appraiser, presented a land value of \$1,679,621.00 for 373,169 square feet, which did not include an area described as an unusable portion at the northwest corner, the ditches, and drainage pond. He presented eleven comparable sales ranging from \$4.15 to \$7.27 per square foot, reconciling at \$4.50 per square foot.

Mr. Sullivan applied a 30% adjustment for the bisecting transmission towers. He argued that highest and best use of the site is industrial or office warehouse and that the towers would impact marketability. The adjustment was based on studies affecting agricultural parcels and residential lots with losses in value varying from 5% to 40%.

Mr. Sullivan presented improvement values of \$3,941,509.00 for the Chrysler building and \$1,236,947.00 for the Hummer building. Basing allocation of the showrooms and service areas on assessor's historical data, he applied Marshall & Swift cost figures for the showrooms (Class C) and "service garage" figures to the service area.

Mr. Sullivan applied an age/life method for physical depreciation, arguing it to be the standard in the industry. He applied a 40-year life to the Chrysler building and a 45-year life to the Hummer building, additional depreciation for the elevator, and 80% depreciation for the asphalt and concrete, concluding to a blended rate of 24%.

Mr. Sullivan applied 30% for economic obsolescence based on the following: a 47% decline in Petitioner's Chrysler sales between 2001 and 2008, lower by 44.9% than national trends; and a 54% decline in Petitioner's Hummer sales between 2006 and 2008 in comparison to a national Hummer sales peak in 2006. He discussed dealership consolidations, a glut of similar automobiles on the market, the national recession, and increasing gasoline prices.

Mr. Sullivan concluded to an indicated value by the cost approach of \$4,446,000.00.

Petitioner presented an income approach to derive a value of \$4,042,000.00 for the subject property. Mr. Sullivan presented rent factors for the two buildings based on multiples of annual sales and gross margins based on amounts per unit sold, concluding to a potential gross income of \$425,523.00. He estimated vacancy and collection loss at 5% and operating expenses at 5% for a net operating income of \$384,034.00. A capitalization rate of 9.5% reflected the additional risk within the automobile industry. This approach supports the conclusion by the cost approach.

Respondent presented the following indicators of value:

Market: N/A
Cost: \$9,404,518.00
Income: N/A

Respondent used a cost approach to derive a market-adjusted cost value for the subject property of \$9,404,518.00.

Respondent's witness, Darla K. Jaramillo, Certified General Appraiser, presented a land value for the site's total 385,942 square feet of \$3,087,536.00. She provided three comparable land sales ranging from \$6.20 to \$7.51 per square foot. Adjusted sales prices ranged from \$7.76 to \$8.27 per square foot, and she reconciled at \$8.00 per square foot.

Ms. Jaramillo argued that highest and best use is not a factor in ad valorem valuation. Sufficient space existed for construction of the improvements, and the remainder of the site was used for dealership parking. The subject's transmission lines and towers had no negative impact on the subject property as it was used on January 1, 2009.

Ms. Jaramillo also noted that the small parcel in the northwest corner of the subject site was owned by Petitioner on January 1, 2009, by which time the intent to extend 50th Avenue had been vacated. She also testified that the site's detention pond fulfills the city's 10% soft-scape requirement and should not be deleted from total square footage.

Ms. Jaramillo presented improvement values of \$4,973,399.00 for the Chrysler building and \$1,200,303 for the Hummer building. Allocation of the showrooms and service areas were based on a current inspection and updated measurements. Marshall & Swift cost data for Class A showrooms were applied. Cost figures for the service areas were based on Marshall & Swift "automotive service center" data, "designed for repair parts sales and service" with "office, storage and repair space commensurate with the quality". Ms. Jaramillo argued that Petitioner's assignment of "service garages and sheds" for cost data ("primarily for vehicular repair and maintenance") was inappropriate.

Ms. Jaramillo applied physical depreciation per Marshall & Swift tables: a 50-year life expectancy for the Chrysler showroom with an effective age of 9 years and depreciation at 5%; a 40-year life for the Chrysler service center with an effective age of 9 years and depreciation at 10%; a 50-year life expectancy for the Hummer showroom with an effective age of 2 years and depreciation of 1%; a 40-year life expectancy for the Hummer service center with an effective age of 2 years and depreciation at 2%. Yard improvements totaled \$193,463.00: asphalt at a base rate of \$2.04 with a life expectancy of 8 years, an effective age of 9 years, and depreciation of 80%; concrete at a base rate of \$3.81 with a life expectancy of 13 years, an effective age of 9 years, and depreciation at 79%.

Ms. Jaramillo made no adjustment for economic depreciation, arguing that automotive sales were not depressed. She referenced several Denver Business Journal articles, quoted the Metro Denver Economic Development Corporation, and testified that financial data for local and national dealerships indicated no downturn in business.

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

The Board finds that Respondent's use of 379,669 square feet for land size is supported; the northwest corner segment was owned by Petitioner without encumbrance on the assessment date, and the detention pond and ditches fulfilled city soft-scape requirements and are integral to the acreage.

The Board disagrees with Petitioner's 30% adjustment for the transmission towers in valuation of the land. Colorado Statute requires valuation of the property in its current use. The subject's acreage provided sufficient land for construction of the improvements and ample space for parking. The Board is not convinced that functional obsolescence existed as it was used on January 1, 2009.

The Board finds that the most convincing land sales are sites with highway frontage. Petitioner's Sales 1 and 2, both future automobile dealerships, are most similar. Sale 3, although a future dealership, was not exposed to the open market and is not used. Sale 4, reportedly an assemblage, is considered but given less weight. Prices per square foot are \$6.00 (Sale 1), \$5.65 (Sale 2), and \$5.36 (Sale 4). The Board concludes near mid-point of the range and assigns a value for the site at \$5.75 per square foot or \$2,219,167.

Respondent's witness suggested application of negative 30% location adjustments for Petitioner's sales' superior I-25 frontage based on land sales from a Weld County appraiser. Land sale data was not presented, and the Board was not convinced that I-25 frontage is superior to I-70 frontage.

In recalculation, the Board uses the following data: Respondent's square footage calculations and allocations of showrooms and service areas (measurements and floor plan sketches are current); Class A construction quality (descriptions and photographs suggest a higher quality than C); "service center" cost figures (based on Marshall & Swift's description); and Respondent's yard improvement figures (materials, rates, and sizes are detailed in comparison to Petitioner's blended rate).

In recalculation, the Board finds that 45 years is a reasonable life expectancy for both Chrysler and Hummer showrooms and 40 years for their service centers. It is not convinced of the existence of economic obsolescence; Respondent's exhibits and testimony regarding a stable overall automotive business were convincing, and Petitioner presented insufficient evidence to tie local or national downturn to the real estate; economic obsolescence as an external influence was not convincing.

Recalculation of the cost approach, using a 9-year effective age for the Chrysler building and a 2-year effective age for the Hummer building, is as follows; \$7,790,324.00 using age/life physical depreciation and \$8,514,581.00 using Marshall & Swift physical depreciation tables. Both are higher than the assigned value of \$6,084,100.00.

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).

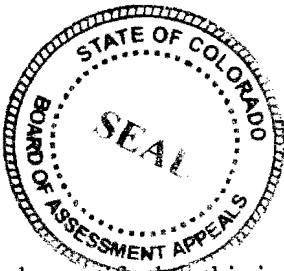
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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.

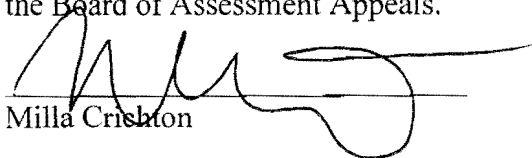
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

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

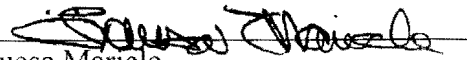
DATED and MAILED this 16th day of September, 2011.

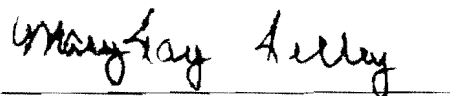


I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Crishton

BOARD OF ASSESSMENT APPEALS


Louesa Maricle


MaryKay Kelley