

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 55368

Petitioner:

**CASTLE ROCK DEVELOPMENT COMPANY OF
COLORADO CORPORATION,**

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on December 16, 2011, James R. Meurer and Debra A. Baumbach presiding. Petitioner was represented by Mr. Richard G. Olona, Esq. Respondent was represented by Mr. Robert D. Clark, Esq. Petitioner is protesting the 2009 actual value of the subject property.

Subject property is described as follows:

**Meadows Subdivision, Castle Rock, Colorado
Douglas County Schedule Numbers:**

Filing 11

Schedule Number **442121**

Filing 17

Schedule Number **478661**

Schedule Number **478663**

Schedule Number **475936**

Schedule Number **475937**

1781 Meadows

Schedule Number **475926**

Filing 20

Schedule Number **477204**

Schedule Number **477196**

Schedule Number **477193**

Schedule Number **477202**

Schedule Number **477195**

Schedule Number **477198**

The subject properties were identified as 824 vacant lot parcels located in the Meadows Subdivision. Out of 824 lots, the parties stipulated to 812 lot values; 12 remaining platted commercial lots are the subject of this appeal. One lot in Filing 11 consists of 2.83 acres; four lots in Filing 17 range in size from 5.72 to 23.30 acres; six lots in Filing 20 range in size from 0.83 to 5.84 acres. The final lot is known as 1781 Meadows Parkway and is 7.00 acres.

Petitioner is requesting an actual value of \$3,820,478.00 for the 12 commercial lots for tax year 2009. Respondent assigned an actual value of \$17,206,776.00 for the 12 commercial lots for tax year 2009. Both parties stipulated to the value of the remaining 812 residential lots.

Based on the market approach and present worth analysis, Petitioner presented a total indicated value of \$3,820,478.00 for the subject property.

Utilizing the market approach, Petitioner's witness, Mr. Todd Stevens, derived an adjusted value for each of the lots in each Filing by using five comparable sales ranging in sale price from \$510,000.00 to \$2,204,000.00 and in size from 2.27 to 50.12 acres. Comparable sales 1, 2, and 3 are sales that occurred within the subject's subdivision and sales 4 and 5 are located in a nearby competing area. All 5 of the sales sold during the applicable statutory base period. After adjustments were made for differences in location and size, the sales ranged from \$138,956.00 to \$301,875.00 per acre and \$2.76 to \$6.93 per square foot.

In developing the present worth discount, Petitioner relied on an absorption period of 25 years based on inclusion of all of the sales of commercial vacant lots in the Meadows Subdivision from 2001 to the end of June 30, 2008. Petitioner concluded to a discount rate of 14% and a present worth range of \$.89 to \$1.51 factor of 6.872927.

Petitioner contends that the most appropriate comparable sales to rely on are those that occurred within the subject's subdivision as they are the most reflective of the market conditions in the subject's area. Sale 2 was considered to be the most superior to the subject because it is a hospital site and sale 3 is located within close proximity to the railroad tracks and requires additional development costs. Less weight was placed on sales 3 and 4 because they are both located in Castle Rock.

In Filing 11, Schedule No. R0442121, there was one lot consisting of approximately 2.83 acres. Petitioner concluded to an adjusted value of \$4.75 per square foot. In the present worth analysis, Petitioner used an adjusted selling price per square foot of \$4.75 and concluded to value of \$160,979.00.

There were four lots in Filing 17. For the first lot, Schedule No. R0478661, consisting of 12.05 acres, Petitioner concluded to an adjusted value of \$5.50 per square foot. For Schedule No. R00478663, consisting of 23.30 acres, Petitioner concluded to an adjusted value of \$3.25 per square foot. For Schedule No. R0475936, consisting of 13.45 acres, Petitioner concluded to an adjusted value of \$2.75 per square foot. Petitioner derived an adjusted value of 2.75 per square foot for Schedule No. R0475937 consisting of 5.72 acres. Petitioner applied the present worth analysis and concluded to a value range of \$188,373.00 to \$906,836.00.

The subject property located at 1781 Meadows Parkway, Schedule No. R0475926, consists of 7.00 acres. After adjustments were made, a value of \$2.90 per square foot was indicated. Petitioner applied the same present worth methodology using the same absorption period, discount rate and present worth factor for an indicated value of \$243,100.00. Most weight was placed on the sale of this subject property.

There were four lots in Filing 20 that were combined in the analysis. Schedule No. R0477193 consists of 0.83 acres; R0477204 consists of 1.67 acres; R0477196 consists of 1.85 acres and R0477202 consists of 2.35 acres. After adjustments were made, a value of \$5.00 per square foot was indicated. Petitioner applied the same present worth methodology as in the previous analysis for an indicated a total value of \$401,175.00 for all four lots.

There were two additional lots in Filing 20 that were combined in a separate analysis. The first lot is Schedule No. R0477195 consisting of 5.03 acres and second is R0477198 consisting of 5.84 acres. After adjustments were made, a value of \$5.25 per square foot was indicated. Petitioner applied the same present worth methodology for an indicated value for both lots of \$683,405.00.

Mr. Stevens testified that his sales reflect the market conditions occurring during the valuation period and one of the sales was that of the subject lots. According to Mr. Stevens, the sales that Respondent relied on were from the extended time frame and did not reflect the same market conditions. Mr. Stevens argued that many of Respondent's sales were located in superior areas with higher commercial and residential density. Mr. Stevens stated that Respondent's analysis did not adequately calculate a sufficient absorption period.

Mr. Stevens contended that he could not find any market support for the absorption periods used in Respondent's present worth analysis. The market value placed on each of the lots indicated higher per square foot ranges than the indicated per square foot value based on the actual sales of the subject properties.

Petitioner is requesting a 2009 actual value of \$3,820,478.00 for the subject property.

Respondent's witness, Mr. Robert D. Sayer, Certified General Appraiser with the Douglas County Assessor's Office, presented an indicated value of \$17,206,776.00 for the subject properties based on the market approach and present worth analysis.

Mr. Sayer testified that he grouped each of the lots according to size, location and other characteristics. There were separate data sets of comparable sales used in valuing the lots based on

the best comparability for each of the lots. Adjustments were made for differences in size, access, topography and location. An additional adjustment was made for any lack of asphalt paved street, curb, and gutter based on Marshall & Swift Valuation Cost Service whenever warranted. Respondent determined, using the sales analysis, that the raw land values within the area ranged from \$3.00 to \$4.00 per square foot. The concluded value for each of the lots was set at the raw land value per square foot.

Mr. Sayer testified that the comparable sales he used in the analysis are older but considered to be more suitable for comparison. He believes it is more appropriate to use sales that are closer to the subject in size, location and other physical characteristics. Petitioner's sales are located in the subdivision, but require a greater degree of adjustments for differences. According to Mr. Sayer, there was a sufficient number of residential vacant land sales but there was a lack of commercial vacant land sales. However, Mr. Sayer determined that the market was stable indicating older sales could be considered. According to Mr. Sayer, Petitioner's absorption period was overstated based on the consideration of all the Filings as an aggregate versus using each Filing separately or using competing environments in the analysis.

In valuing Schedule No. R0477195, Respondent presented nine comparable sales ranging in sale price from \$3.31 to \$11.99 per square foot and in size from 120,661 to 546,025 square feet. After adjustments were made, the sales ranged from \$5.04 to 10.80 per square foot. Respondent placed the greatest weight on comparable sales 4, 5 and 7 because they required the least degree of adjustments and concluded to a value of \$7.28 per square foot for the subject.

Utilizing the present worth analysis, Respondent used an adjusted selling price per square foot of \$7.28. Respondent relied on an absorption period of 12 years based on an analysis of each Filing. Respondent applied a 14% discount rate and a present worth factor of 5.660292 for an indicated value of \$752,124.00 for the usable area. Respondent concluded to a value of \$4.00 per square foot for a raw land value of \$877,112.00.

Using the same set of nine comparables and applying the same methodology for Schedule No. R0477198, a final indicated value based on the indicated raw land value of \$1,018,128.00 was calculated.

Respondent relied on a different set of ten comparable sales for Schedule No. R0477193. Respondent used four of the ten sales in the analysis and the sales ranged in sale price from \$11.83 to \$15.00 per square foot and in size from 20,908 to 64,904 square feet. After adjustments were made, the sales ranged from \$10.06 to \$13.50 per square foot. Sale 5 required the least degree of adjustments and was given the greatest consideration. Respondent relied on the same present worth methodology for a raw land value of \$144,972.00.

Using the same set of ten comparables in valuing Schedule No. R0477196, Respondent relied on four of the ten sales ranging in sale price from \$11.10 to 15.00 per square foot and in size from 59,242 to 135,167.00 square feet. After adjustments were made, the sales ranged from \$10.20 to \$13.88 per square foot. Sale 1 was given the most consideration and, applying the same present worth methodology, correlated to a raw land value of \$321,812.00.

The same ten comparable sales were used in valuing Schedule R0477202; and after the adjustments, the sales ranged in sale price from \$10.20 to \$13.88 per square foot. Most consideration was placed on sale 1 and 3 for requiring the least degree of adjustments. After applying the same present worth methodology, a raw land value of \$409,307.20 was concluded.

In valuing Schedule No. R0477204, Respondent relied on the same four sales as in Schedule R0477202. After adjustments, the sales ranged from \$10.20 to \$13.88 per square foot with the greatest weight placed on sale 1 for the least required adjustments. Relying on the same present worth analysis, a raw land value of \$291,028.00 was concluded.

For Schedule No. R0475926, Respondent presented a new set of nine comparable sales ranging in sales price from \$3.31 to 11.99 per square foot and in size from 120,661 to 546,025 square feet. After adjustments were made, the sales ranged from \$4.41 to \$10.19. Respondent gave sales 2 and 8 the most consideration as they required the least degree of adjustments and concluded to a raw land value of \$2,089,884.00. Respondent did not apply a present worth discounting analysis.

Using the same set of nine comparables in valuing Schedule No. R0475936, Respondent relied on four of the nine comparable sales ranging in sale price from \$5.88 to \$11.99 per square foot. After adjustments were made, the sales ranged from \$5.70 to \$10.19 per square foot. Respondent applied a present worth analysis with an absorption period of 2 years, the same discount rate of 14% and a present worth factor of 1.646661 for a concluded raw land value of \$2,343,179.52.

In valuing Schedule No. R0475937, and using the same set of nine comparables, Respondent relied on four of the nine comparable sales ranging in sale price from \$3.31 to \$8.41 per square foot. After adjustments were made, the sales ranged from \$4.47 to 7.29 per square foot. Respondent applied the same present worth discounting analysis using a 2 year absorption period and concluded to a raw land value of \$995,955.84.

Using the same set of nine comparables in valuing Schedule No. R0478661, Respondent relied on five of the nine comparable sales ranging in sale price from \$3.31 to 11.99 per square foot and in size from 370,216 to 546,025 square feet. After adjustments were made, the sales ranged from \$5.13 to \$10.33 per square foot. Respondent applied the same present worth analysis using a 5 year absorption period and concluded to a raw land value of \$1,575,099.00.

In valuing Schedule No. R478663, Respondent presented a new set of six comparable sales ranging in sale price from \$3.60 to 7.70 per square foot and in size from 821,323.80 to 2,183,096.52 square feet. Respondent relied on all six sales and after adjustments were made, the sales ranged from \$3.24 to \$6.16 per square foot. Respondent applied the same present worth analysis using an absorption period of 5 years and concluded to a raw land value of \$3,044,706.00.

In valuing Schedule No. R0442121, Respondent relied on a new set of nine comparables and used five of those nine comparable sales ranging in sale price from \$4.20 to \$9.30 per square foot. After adjustments were made, the sales ranged from \$4.41 to \$7.05 per square foot. Respondent

applied the same present worth analysis using an absorption period of 2 years and concluded to a raw land value of \$492,402.24.

Respondent assigned an actual value of \$17,206,776.00 to the subject property for tax year 2011.

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

The Board placed most weight on the three of Petitioner's comparable sales within the subject's subdivision. They were considered to be the best indicators of market value and occurred at the end of the statutory time frame indicating market perception. The Board gave secondary weight to all of Respondent's comparable sales and Petitioner's sales 4 and 5. The Board was not convinced by Respondent's argument that Petitioner's sales required a higher degree of adjustments for some of the lots. The Board found many of Respondent's sales to have a high degree of adjustments as well. The Board found Petitioner's sales and adjustments more persuasive and, additionally, one of the sales was that of the subject property.

Both parties agreed on a discount rate of 14% with the biggest difference in the absorption rate calculations. Petitioner relied on the entire approved plat from 2001 to 2008 and Respondent relied on each Filing separately and competitive environments. It is appropriate to utilize both methods, however, the Board concluded Petitioner's absorption period to be overstated and Respondent's insufficient, based on the evidence presented.

The Board concluded that the lot sales that occurred within the plat should be used in calculating the absorption period. The Board relied on the lot sales from 2004 through June 30, 2008 which is allowable under Section 39-1-104(10.2)(d), C.R.S. The Board found that these lot sales are a better indication in calculating an absorption period.

There were a total of seven lot sales during that time frame and the Board concluded to an absorption period of 13 years for all of the lots, 14% discount rate and a present worth of \$1.00 factor of 5.842362. The Board placed most weight on Petitioner's sales and adjustments in the analysis.

The Board reviewed the raw land sales presented by Respondent and determined that a floor of \$3.00 per square foot is a supported conclusion. Petitioner did not present any evidence to refute a raw land value of \$3.00 per square foot. The ARL Guideline 4.14 states that the present worth value must never fall below the most comparable raw land sales. The Board concluded that each of the lots should be valued at \$3.00 per square foot raw land value.

The Board concluded to the following values:

R0442121	\$369,825.50
R0478661	\$1,576,000.00 (rounded)
R0478663	\$3,044,706.00
R0475936	\$1,757,385.00 (rounded)

R0475937	\$746,967.00 (rounded)
R0475926	\$914,760.00
R0477193 +	
R0477204 +	
R0477196 +	
R0477202	\$875,339.00 (Aggregate for all four lots)
R0477198	\$763,597.00
R0477195	\$657,834.00
 Total	 \$10,706,413.50

ORDER:

Respondent is ordered to reduce the 2009 value of the subject property to \$10,706,413.50.

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.

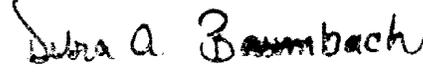
Section 39-8-108(2), C.R.S.

DATED and MAILED this 13th day of March, 2012.

BOARD OF ASSESSMENT APPEALS



James R. Meurer



Debra A. Baumbach

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



Milla Crichton

