

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

Docket No.: 58009

Petitioner:

**BELLEFEUILLE FAMILY LIMITED
PARTNERSHIP,**

v.

Respondent:

**RIO GRANDE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 7, 2012, Diane M. DeVries and MaryKay Kelley presiding. Petitioner was represented by Charles C. Powers, Esq. Respondent was represented by Bill Dunn, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**1441 East Highway 160, Monte Vista, Colorado
Rio Grande County Schedule No. 3705100106**

The subject property is comprised of 17 buildings with 260 self-storage units on a 3.3 acre site fronting Highway 160. The units were built between 1990 and 2006 and vary in size from 1200 to 3000 square feet.

Respondent assigned an actual value of \$1,057,048.00 for tax year 2011. Petitioner is requesting a value of \$620,000.00.

Petitioner presented the following indicators of value:

Market:	\$610,000.00
Cost:	\$685,000.00
Income:	\$690,000.00

Petitioner presented a market approach with an indicated value of \$610,000.00. Petitioner's witness, Edd Gillespie, Certified General Appraiser, presented five comparable sales ranging in sale price from \$72,000.00 to \$408,000.00. Sales 1, 2 and 3 were adjusted downward by 50% to reflect their involvement in a Section 1031 tax exchange. Mr. Gillespie made only one adjustment to the five sales, it being for their superior construction quality. Adjusted sale prices ranged from \$13.60 to \$20.42 per square foot with a concluded value of \$15.30 per square foot.

Petitioner presented a cost approach to derive a value of \$685,000.00. Mr. Gillespie applied replacement costs and depreciation factors from Marshall & Swift and estimated a land value of \$130,000.00 based on one vacant sale.

Petitioner presented an income approach to derive a value of \$690,000.00. Mr. Gillespie used actual income and expense data provided by Petitioner. He considered a 10% vacancy rate reported by other self-storage properties (ranging from 5% to 10%) to be more reliable than the subject's actual rate of 3%. He applied a capitalization rate of 10.9% based on market data and national surveys.

Weighing all three approaches, Petitioner reconciled to \$620,000.00.

Respondent presented the following indicators of value:

Market:	\$1,259,252.00
Cost:	N/A
Income:	\$865,616.00

Respondent presented a market approach with an indicated value of \$1,259,252.00. Petitioner's witness, Michelle Medina, Registered Appraiser, presented three comparable sales ranging in sale price from \$140,000.00 to \$408,000.00. Sales 1 and 2 were also used by Petitioner, although Ms. Medina had no evidence of their participation in a Section 1031 tax exchange. She made adjustments for differences in land size and improvement size. After adjustments, the sales ranged from \$1,184,889.00 to \$1,401,385.00; this approach confirmed the value assigned by the B.O.E.

Respondent did not consider the cost approach reliable due to difficulty in estimating accrued physical depreciation.

Respondent presented an income approach to derive a value of \$865,616.00. Respondent's witness, Telesforo Joe Dominguez, Rio Grande Assessor, applied the best information available; Petitioner's manager provided income data and the actual vacancy rate (2% to 3%), Assessor office appraisers estimated expenses, and independent appraisers provided the capitalization rate.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2011 valuation of the subject property was incorrect.

The Board has little confidence in either party's market approach. Mr. Gillespie convinced the Board that the Del Norte, Monte Vista, and Center sales were involved in a Section 1031 exchange, which questions their reliability as arm's length transactions. The remaining two sales (Petitioner's Sales 4 and 5 and Respondent's Sale 3) are considerably different in land size, improvement size, and sale price and were adjusted very differently by the parties. The Board gives little reliance to this approach.

The Board is persuaded that the income approach provides the best indication of value, and Petitioner's analysis is convincing. Income and expenses (three-year average) and the capitalization rate are supported by actual data and market research. However, the Board finds the subject's actual vacancy rate of 3% more reliable. Recalculation of Petitioner's income approach with a 3% vacancy rate indicates a value of \$740,000.00 rounded.

INCOME	\$133,908.00
MINUS 3% VACANCY	<u>\$ 4,017.24</u>
EFFECTIVE GROSS INCOME	\$129,890.76
MINUS OPERATING EXPENSES	
(.378493)	<u>\$ 49,163.00</u>
NET OPERATING INCOME	\$ 80,727.76
CAP RATE OF 10.9%	
VALUE BY INCOME APPROACH	\$740,621.65 OR \$740,000.00 RD

The Board concludes that the 2011 actual value of the subject property should be reduced to \$740,000.00.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$740,000.00.

The Rio Grande 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 10th day of May, 2012.



BOARD OF ASSESSMENT APPEALS

A handwritten signature in black ink that reads "Diane M. DeVries".

Diane M. DeVries

A handwritten signature in black ink that reads "MaryKay Kelley".

MaryKay Kelley

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

A handwritten signature in black ink that reads "Milla Crichton".

Milla Crichton