

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DILLON COMPANIES INC, dba KING SOOPERS,</p> <p>v.</p> <p>Respondent:</p> <p>WELD COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 58044</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 23, 2012, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Lee E. Schiller, Esq. Respondent was represented by Stephanie L. Arries, Esq. Petitioner is protesting the 2011 actual value of the subject property.

The parties stipulated to land value at \$1,894,400.00; to the size of the building at 120,536 square feet and to 90% completion of the improvements as of the valuation date. The parties also stipulated to Petitioner’s exhibits one through five and Respondent’s exhibits A, B and C.

Subject property is described as follows:

**6922 W 10th Street, Greeley, Colorado 80632
Weld County Schedule No. R6777757**

The subject is a single tenant, one story “Marketplace” combined supermarket and home furnishings store with a fuel station canopy and cashier’s kiosk. The building contains 120,536 square feet and has an additional 4,705 square feet of mezzanine. The improvements obtained a certificate of occupancy in February 2011 and were 90% complete as of the January 1, 2011 valuation date. Petitioner describes the property as similar to a “Super Target” with a combination of supermarket and warehouse/display areas.

Petitioner presented the following indicators of value:

Market: Not provided

Cost: \$9,756,554.00
Income: Not provided

Petitioner is requesting an actual value of \$9,756,554.00 for the subject property for tax year 2011. Respondent assigned a value of \$12,800,923.00 for the subject property for tax year 2011.

Petitioner's witness, Harold S. McCloud, MAI, a Certified General Appraiser, presented a cost approach to derive a market-adjusted cost value for the subject property of \$9,756,554.00. Mr. McCloud applied the calculator method as published by the Marshall Valuation Service.

Mr. McCloud stated that the subject property combines the features of a standard supermarket containing between 60,000 to 70,000 square feet with an additional 60,000 square feet of warehouse used for display of home furnishings and for storage. The building appears like a large King Soopers store from the exterior but the store entries feature carpeted vestibules for home fixture displays. The store interior includes a Starbucks coffee shop, a Fred Meyer Jewelers, Optimum Solutions, US Bank, pharmacy, deli, bakery, other typical supermarket services and a mezzanine area for offices, employee break room, and a conference space. The mezzanine is also served by an elevator. The property is average in quality and finish.

Mr. McCloud applied a blended cost between supermarket and warehouse and adjusted for structure height, perimeter, current and local cost multipliers to determine a cost of \$8,079,898.00. The fuel station improvements and parking lot finishes are added for a total cost of \$8,735,727.00. The finished cost is reduced by 10% and the agreed land value is added for a total value by the cost approach of \$9,756,554.00. No separate indication was developed for the mezzanine. Mr. McCloud stated he had analyzed the owner's actual costs and found his conclusion to be within 3.5% of the owner's estimate.

Respondent presented the following indicators of value:

Market: Not provided
Cost: \$12,800,923.00
Income: \$12,013,365.00

Respondent's appraiser, Noel R. Lawrence, a Certified Residential Appraiser, also used the calculator method as published by the Marshall Valuation Service to derive a market-adjusted cost value for the subject property of \$12,800,923.00.

Mr. Lawrence considered the subject as a single entity and applied a cost for a good quality supermarket. The base cost was adjusted for structure height, perimeter, current and local cost multipliers. The cost new for the fuel station improvements and parking lot finishes were added and the finished cost adjusted down by 90% for a total cost of \$10,906,523.00. The agreed land value was added for a total value by the cost approach of \$12,800,923.00. Mr. Lawrence presented an analysis of the builder's "Project Summary Report" adjusted for personal property and interest costs as supportive of the value opinion.

Mr. Lawrence used the income approach to derive a value of \$12,013,365.00 for the subject property. Current income was estimated from two triple net leases of older supermarkets in the market area. Gross income was reduced by a 13% vacancy rate determined by surveying 18 grocery or supermarkets in Greeley. The net operating income determined was capitalized by a rate derived from a regional third party publication.

Respondent reconciled the two approaches and assigned an actual value of \$12,800,923.00 to the subject property for tax year 2011.

Petitioner contends the subject is a new concept in the market area because of the blend of supermarket and retail display warehouses similar to Super Target or Costco stores. Construction features of the entire property are not the same as found in a building developed only for supermarket use. Petitioner stated the cost estimate derived was within 3.5% of the actual costs as provided by the owner. The mezzanine area does not contribute additional value as it represents the typical office finishes found in similar structures. Petitioner also questioned the builder's "Project Summary Report" due to an unsupportable figure of 41% of cost for "General Requirements." Petitioner also noted the figures provided were reported as "projected."

Respondent counters the subject is not significantly different than a large supermarket and the warehouse area is overstated by Petitioner. Respondent asserts the failure of Petitioner's expert to include the subject's mezzanine area resulted in an inappropriate value.

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

The Board finds Respondent's consideration of the entire property as a supermarket results in an overstatement of value. The subject contains significant area devoted to non-food and non-grocery items that represent uses not typically found in a supermarket. The differing uses require recognition in the building cost. Respondent conceded the income approach did not correctly recognize the unfinished nature of the property on the value date. Application of a 10% discount to the income value estimate would produce a new indication of \$10,812,029.00.

The Board questions Petitioner's analysis of the mezzanine area. Most supermarket office areas do not include elevators. The contention that this finish is typical belies the significant improvements in finish to this new concept store. The analysis notes several tenants and some of these tenants will require significant tenant improvements and, at the least, additional costs beyond warehouse finish in rough in expense. The contribution of personal property is not clearly stated.

Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to the value as presented by Petitioner.

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$9,756,554.00.

The Weld 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.

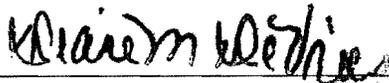
Section 39-8-108(2), C.R.S.

DATED and MAILED this 3rd day of April, 2012.

BOARD OF ASSESSMENT APPEALS

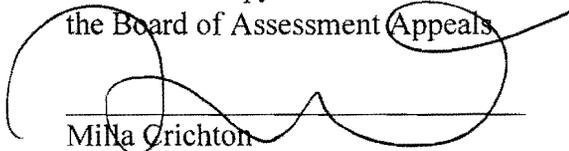


Gregg Near



Diane M. DeVries

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



Mila Crichton

