

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 59010

Petitioner:

WFC YOSEMITE GREENWOOD LLC,

v.

Respondent:

ARAPAHOE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on January 25, 2013, James R. Meurer and Brooke B. Leer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**6570 South Yosemite Street, Greenwood Village, CO
Arapahoe County Parcel No. 2075-21-4-24-001**

The property is a one-story retail building that has 23,791 rentable square feet. It was built in 1977 as a Skate City and remodeled to a multi-tenant building in 1995. The building is a precast twin tee construction with individual store fronts. The area has significant retail uses along Arapahoe Road and is surrounded by office uses to the north, both east and west of I-25. The subject's land area is approximately 1.80 acres. The property sits just north of the northeast corner of Yosemite Street and Arapahoe Road intersection. As of the valuation date, the subject property was about 55% vacant.

Respondent assigned a value of \$4,500,000 for tax year 2011. Petitioner is requesting a value of \$2,100,000 for tax year 2011.

Petitioner presented the following indicators of value:

Cost:	N/A
Market	\$2,022,235
Income:	\$2,106,532

Based on the market and income approaches, Petitioner concluded to an indicated value of \$2,100,000 for the subject property.

Petitioner's witness, Mr. Todd Stevens, with Stevens & Associates Cost Reduction Specialists, Inc., presented a market approach that included five comparable sales ranging in sales price from \$1,275,000 to \$22,000,000 and in size from 17,486 to 190,104 square feet. After adjustments were made, the sales ranged from \$63.42 to \$103.00 on a per square foot basis. The major adjustments to the comparable sales consisted of location, age, economic conditions, and size. Mr. Stevens reconciled the adjusted sales at \$85.00 per square foot resulting in an indicated value of \$2,022,235.

Petitioner's witness also presented an income approach to derive a value of \$2,106,532 for the subject property. A direct capitalization model was used and consisted of income estimated at \$21.00 per square foot on a triple net basis for the restaurant space and \$14.50 per square foot, triple net, for interior space. A long term vacancy and collection factor was estimated at 20%; a 5% management fee was applied; and 20% of effective operating income was applied for expenses, maintenance and reserves. A capitalization rate of 11% was applied to net operating income.

Mr. Stevens argued that Respondent did not properly address the significant vacancy at the subject and the difficult economic conditions at the time of valuation which depressed the rents. He also testified that the sales used by Respondent were in better areas than the subject and overall were of newer construction. He further testified that the capitalization rate used was not reflective of the rates from the Denver-Metropolitan area. The witness contended that Respondent did not take into account that the subject property went into foreclosure during the base period.

Respondent presented the following indicators of value:

Cost:	N/A
Market	\$4,700,000
Income FSG:	\$4,540,000

Respondent concluded to an indicated value of \$4,600,000; however is recommending a reduction to \$4,500,000, which is the assigned value at the Arapahoe BOE.

Respondent's witness, Mr. Gary Mycock, a Certified Commercial Appraiser with the Arapahoe County Assessor's Office, presented a market approach that included five comparable sales ranging in sale price from \$2,025,000 to \$6,600,000 and in size from 11,074 square feet to 27,371 square feet. Adjustments to the comparable sales were for building age and quality, land area and land to building ratio, location at a signalized corner, occupancy rate and condition. Respondent reconciled the adjusted sales at \$195.00 per square foot resulting in an indicated value of \$4,700,000, rounded, by the market approach.

A direct capitalization model was used by Respondent in the income approach. Rents were gathered in the subject area as well as along Parker Road and South University Road. The leases were all signed in 2009 and ranged from \$15.25 per square foot for an Advance Auto Parts store to \$35.00 per square foot for an Einstein Brothers Bagels store. The two subject leases referenced were Performance Bikes at \$19.08 and Jimmy Johns at \$21.00. Respondent applied an overall rental rate of \$21.00 per square foot to the subject space. Vacancy was applied at 10% and there was some consideration for a one to two year lease-end period to reach a stabilized vacancy rate. Owner expenses were applied at 8% of effective gross income. A capitalization rate of 8.25% was applied. The conclusion by the direct capitalization in Respondent's appraisal report, after deducting for the excess vacancy, was \$4,540,000 or \$191.00 per square foot.

Respondent's witness testified that Petitioner failed to adequately address the renovation of the subject in 1995, which redesigned the larger, open subject space, into individual bays. The witness also testified that Petitioner was in error as to the subject's foreclosure during the valuation period.

The significant differences between Petitioner's and Respondent's estimates of value were the comparables used in the market approach. Petitioner's witness used larger centers in different areas and in a wide range of prices paid. Respondent witness used smaller sales with fewer adjustments needed for size but four of the five sales used took place in 2008. The income approaches differed as Petitioner applied a blended market rate at \$16.00 per square foot. Respondent applied \$21.00 per square foot, putting more emphasis on the existing rents which were signed in 2009. The stabilized vacancy rates varied, 20% and 10%, as did the capitalization rates, 11.0% and 8.25%.

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the income approach should be given the most weight relative to the final opinion of value. After review of the variables found in the exhibits and testimony used by both Petitioner and Respondent, the Board concludes that an overall market rental rate for restaurant and interior space should be applied at \$18.00 per square foot, 10% vacancy, 10% for operating expenses and reserves, and a 9.5% capitalization rate. This rate is reflective of the softer market conditions present and expected in the near future and the higher existing vacancy rate as of the valuation date. These variables are reflected in the direct capitalization model found below:

Gross Income			
Rentable Space	23,791	sf \$18.00	\$428,238
Total Gross Income	<u>23,791</u>		<u>\$428,238</u>
Vacancy Factor	10.00%		<u>\$42,824</u>
Effective Gross Income			<u>\$385,414</u>
Expenses	10.00%		\$38,541
Net Operating Income			\$346,873
Overall Rate			<u>9.50%</u>
			\$3,651,292

ORDER:

Respondent is ordered to reduce the 2011 actual value of the subject property to \$3,651,000, or \$153.46 per net rentable square feet.

The Arapahoe 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 19th day of February, 2013.

BOARD OF ASSESSMENT APPEALS

James R. Meurer



Brooke B. Leer

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

Milla Crichton

