

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 59082

Petitioner:

DS PARTNERSHIP LLC,

v.

Respondent:

LARIMER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on October 3, 2012, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Linda K. Connors, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**541 W. 67th Street, Loveland, CO
Larimer County Schedule No. R1603767**

The property consists of an owner-occupied light industrial building located in the Longview-Midway subdivision in the northern section of the City of Loveland. The building contains 26,140 square feet and includes approximately 6,140 square feet of office and showroom finish, with the balance containing typical warehouse finish. The building was constructed in 2006, is masonry construction with a flat roof, and insulated glass windows. Ceiling height in the warehouse area approximates 28 feet and there are five loading doors, three of which are dock-high. HVAC is forced air and parking is typical for a building of this size and use. Site size is 1.5 acres and all utilities are publically provided. The land-to-building ratio is 2.50:1.

Respondent assigned a value of \$2,350,000 for tax year 2011. Petitioner is requesting a value of \$1,375,000 for tax year 2011.

Petitioner presented the following indicators of value:

Cost:	N/A
Market	\$1,307,000
Income:	\$1,483,314

Based on the market and income approaches, Petitioner concluded to an indicated value of \$1,375,000 for the subject property.

Petitioner's witness, Mr. Todd Stevens, presented a Market (Sales Comparison) Approach that included two comparable sales ranging in sales price from \$860,000 to \$1,275,000 and in size from 13,950 square feet to 15,247 square feet. After adjustments were made, the sales ranged from \$44.48 to \$51.18 on a per square foot basis. The major adjustments to the comparable sales consisted of age, physical characteristics, and excess land. Petitioner reconciled the adjusted sales at \$50.00 per square foot resulting in an indicated value of \$1,307,000.

Petitioner also presented an Income Approach to derive a value of \$1,483,314 for the subject property. A direct capitalization model was used and consisted of income estimated at \$6.50 per square foot triple net. A vacancy and collection factor was estimated at 10% and expenses including management fees were estimated at \$19,421.14. The net operating income was capitalized at a 9.00% overall rate resulting in an indicated value of \$1,483,314 via the income approach.

Petitioner argued that Respondent did not take into account the appropriate market sales and leases in their analysis; that two of Respondent's sales were outside the 18 month base period; and that Respondent did not recognize the excess land in Respondent's valuation. Petitioner further argued that Respondent used office rather than warehouse rents in its income approach and that the expenses used by Respondent in the income approach were below market.

Respondent presented the following indicators of value:

Cost:	N/A
Market	\$2,350,000
Income:	\$2,317,100

Based primarily on the market approach with secondary consideration of the income approach, Respondent concluded to an indicated value of \$2,350,000 for the subject property.

Respondent's witness, Ms. Jody Masters, a Certified General Appraiser with the Larimer County Assessor's Office, presented a market approach that included three comparable sales ranging in sales price from \$1,800,000 to \$3,200,000 and in size from 16,525 square feet to 28,952 square feet. The major adjustments to the comparable sales were for physical characteristics, and location. Respondent reconciled the adjusted sales at \$90.00 per square foot resulting in an indicated value of \$2,350,000 via the market approach.

In addition, Respondent presented an income approach. A direct capitalization model was used to arrive at value and consisted of split rate income estimated at \$12.50 triple net per square foot for the office/retail space and \$8.00 triple net per square foot applied to the

warehouse space. A vacancy and collection factor was estimated at 10% for the office/retail space, and 7% for the warehouse space. Expenses were estimated at \$20,922. The net operating income was capitalized at a 8.5% overall rate resulting in an indicated value of \$2,317,100 via the income approach. According to Respondent, the estimates of income, vacancy, and expenses were based on surveys in the Northern Colorado industrial markets.

Respondent's witness further testified that the adjustments employed in Respondent's market approach and the variables used in the income approach were all supportable within the market, as opposed to Petitioner's analysis which appeared to lack the necessary detail, analysis, and support.

Respondent presented sufficient probative evidence and testimony to show that the tax year 2011 valuation of the subject property was correct. Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005).

The significant differences between Petitioner's and Respondent's estimates of value were the adjustments to the comparables in the market approach and the estimate of the appropriate market rent and expenses in the income approach. After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the comparable sales used in Respondent's market approach and the income and expenses employed in Respondent's income approach are reasonable and therefore most accurately reflect the market value for the subject.

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

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 23rd day of October, 2012.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

James R. Meurer

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

Milla Crichton

