

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 60174

Petitioner:

GRANBY COMMONS HOLDING CO., LLC

v.

Respondent:

GRAND COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 25, 2012, Louesa Maricle, Brooke Leer, and MaryKay Kelley presiding. Petitioner was represented by David P. Michel, Managing Partner. Respondent was represented by Anthony J. DiCola, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**61101 U.S. Highway 40, Granby, Colorado
(Tract B, Granby Ranch Filing 7)
Grand County Schedule Nos. R305175 and R305176**

The subject is a commercial building (4,460 square feet per Petitioner, 4520 square feet per Respondent) on 5.64 acres. Its situation on sloping terrain allows at-grade access from both levels. Accessed from Village Road via U.S. 40, it was vacant throughout the base period and to date.

Respondent assigned an actual value of \$824,320 for tax year 2011. Petitioner is requesting a value of \$650,000.

Petitioner purchased the subject property for \$1,250,000 on September 24, 2008. Mr. Michel, Managing Partner, discussed the collapse of the stock market immediately thereafter and the country's subsequent recession. The real estate market in the county was depressed throughout the base period. The property was unmarketable; it could neither be leased nor sold.

Mr. Michel presented an income approach to derive a value of \$650,000 for the subject property. He presented two scenarios: income estimates of both \$53,520 (\$12 per square foot considered appropriate for the base period) and \$36,000 (\$3,000 advertised monthly rent); expenses of \$27,525; and capitalization rates of both 8% and 9.15%. He concluded to net operating incomes of \$550,000 and \$468,972. Acknowledging that his 2008 purchase was for development and that high expenses for maintenance and leasing should be considered, he blended his income approach conclusions with Respondent's indicated value per the market approach of \$1,000,000 to reconcile at \$650,000.

Respondent presented the following indicators of value:

Market:	\$1,000,000
Cost:	\$ 827,000
Income:	\$ 275,000

Respondent presented an indicated value of \$850,000 for the subject with primary weight on the market approach and secondary weight on the income approach. The cost approach was given little weight due to the age of the improvement.

Respondent's witness, Fred Sidell, Registered Appraiser, presented four comparable sales ranging in sale price from \$675,000 to \$1,900,000. After adjustments were made, the sales ranged from \$657,900 to \$1,051,800. He placed greatest weight on the subject sale with an adjusted value of \$1,051,800; Sales Two and Three with adjusted values of \$1,006,500 and \$994,100, respectively, were supportive.

Respondent's income approach included a lease rate of \$9 per square foot (based on surveys), a vacancy and collection rate of 10% (area averages), and expenses of \$5,000 (10-15% of gross income) to arrive at a net operating income of \$31,612. Application of an 11.50% cap rate (Burbach average of 8.5% plus 3% tax rate) concludes to a value of \$274,887. A discussion of excess land resulted in application of \$85,000 per acre based on a purchase of 4.5 acres by Petitioner across Village Drive with conclusion at \$382,500 for a total value per income approach of \$657,400.

Petitioner did not present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2011.

The Board has little confidence in Petitioner's income approach due to lack of support for income data, expenses, and capitalization rates and due to an unconvincing argument for a blended rate conclusion.

The Board puts little reliance on Respondent's income approach. The subject property was vacant throughout the base period, and the income approach is not considered the most reliable for a vacant property. In addition, the witness did not originally consider excess land to be a factor, and a thorough analysis of the market did not occur. The Board considers Respondent's market approach to have been well developed and persuasive, but the property's long-term vacancy raises the question of assigning it primary weight.

Neither party convinced the Board that the assigned value should be reduced.

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 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 6th day of August, 2012.

BOARD OF ASSESSMENT APPEALS



Louesa Maricle

Brooke B. Leer

Brooke Leer

MaryKay Kelley

MaryKay Kelley

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

Milla Crichton

Milla Crichton

