

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 60373 and  
61509**

Petitioner:

**CASTLE PINES MARKETPLACE LP,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on April 17, 2013. James R. Meurer and Brooke B. Leer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2011 and 2012 actual values of the subject property.

The two docket numbers have been consolidated into one hearing. The value of the vacant pad site (parcel number 2351-031-10-004) that is part of the subject property, has been stipulated to \$341,336, or \$12.00 per square foot.

Subject property is described as follows:

**558 to 572 East Castle Pines Parkway, Castle Pines, CO  
Douglas County Schedule Numbers: 2351-030-01-010 and 2351-031-10-005**

The subject property consists of a shopping center containing a Safeway with two adjacent retail buildings and a free-standing retail building along with a parking lot.

The retail buildings were built in 2000 and 2001 and are located at the southwest corner of I-25 and East Castle Pines Parkway. The subject retail center is a Class C neighborhood shopping center and is in good condition. It is zoned B-Business in the City of Castle Rock. The rentable area of the buildings is 93,418 square feet. The highest and best use of the subject is its current use as a retail center.

Petitioner presented the following indicators of value:

Cost: N/A  
Market: \$8,533,374  
Income: \$7,772,547

Petitioner is requesting an actual value of \$7,900,000 for the subject property for tax years 2011 and 2012. Respondent assigned a value of \$12,495,107 for the subject property for tax years 2011 and 2012.

Petitioner's witness, Mr. Todd Stevens with Stevens and Associates Cost Reduction Specialists, Inc., presented a market approach comprising of four comparable sales ranging in sale price from \$82.08 to \$121.96 per square foot. Two of the sales were located in Littleton and two in Broomfield. The sales occurred within the valuation period of January 1, 2009 to June 30, 2010. After adjustments were made, the sales ranged from \$82.08 to \$108.78 per square foot. The sales were all larger than the subject and two of them were anchored by a King Soopers grocery store, (Sales 2 and 4). Mr. Stevens concluded to the subject's value via market approach of \$8,533,374 or \$95.00 per square foot.

Petitioner presented an income approach using seven rent comparables, including one rent from the subject to estimate a market rent for the non-anchor space. Both parties applied the contract amount of \$8.75 per square foot to the anchor space leased to Safeway.

The subject lease used for a rent comparison was for a 1,000 square foot space and negotiated in the base period but executed outside of the base period, at \$15.00 per square foot. The other rent comparables presented for the non-anchor space, ranged from \$13.50 to \$22.50 per square foot. The rent at the high end was for space in the adjacent retail center on Lagae Road. Another close retail comparable used was Lease 2, at Happy Canyon and Sante Fe, this center leased space at \$16.00 to \$18.00 per square foot. The adjustments applied by Petitioner's witness for the subject space were:

\$8.75 per square foot for Safeway  
\$15.00 per square foot triple net rent for other space  
15% vacancy  
15% for expenses  
9.5% capitalization rate

Mr. Stevens testified that the most weight was placed on the conclusion by the income approach at \$7,772,547. He concluded to a market value for the subject shopping center for tax years 2011 and 2012 at \$7,900,000.

Respondent's witness, Mr. Michael J. Fronczak, a Commercial Appraiser with the Douglas County Assessor's Office, presented the following indicators of value:

Cost: N/A  
Market: \$13,000,000  
Income: \$12,700,000

In the market approach, Mr. Fronzak used four sales that were located in Loveland, Ft. Collins, Wheat Ridge and Parker. Sales 1, 2 and 3 occurred outside the base valuation period, in 2008. Sale 4 occurred in May 2010. The comparable sales ranged in sale price from \$92.60 to \$188.54 per square foot. After adjusting the sales, Respondent concluded to \$140.00 per square foot for the subject property. The most weight was given to Sales 2 (Wild Oats anchor) and 3 (Safeway anchor) which ranged from \$107.00 to \$172.00. per square foot. rounded.

For the income approach, Respondent applied the contract rent of \$8.75 per square foot to the space occupied by Safeway. Five rent comparables were used to estimate rent for the remaining non-anchor space. Four of the five rents were from centers that had grocery store anchors as part of the retail centers. The rents gathered ranged from \$19.00 to \$28.00 per square foot. The centers were built from 1994 (Rent 1, which was at the low end) to 2003 (Rent 3, which went up to the high end of rents). Respondent's appraiser focused on a rental range of \$22.00 to \$26.00 per square foot. The subject actual leases in place averaged \$24.20 per square foot. Parameters applied by Respondent's appraiser for the subject were:

- \$8.75 per square foot for Safeway
- \$24.00 per square foot triple net for other space
- 15% vacancy
- 13% for expense
- 8.5% capitalization rate

Respondent's conclusion of value for the subject by the income approach was \$12,700,000. With the most weight placed on the income approach, Respondent concluded to an actual value of \$12,700,000 for the subject property for tax years 2011 and 2012.

The Board agrees that the emphasis in concluding to the subject's value should be placed on the income approach. There was insufficient number of comparable sales to compare to the subject property within the valuation time period. The primary differences between Petitioner's and Respondent's concluded values were based on the market rent applied to the non-anchored retail space (\$15.00 v. \$24.00 per square foot).

The market rents from the centers closest to the subject were at \$16.00, \$18.00 and \$22.50 per square foot. The \$22.50 rate was for the adjacent King Soopers shopping center. The Board determined that the rent for the subject would be less than the rent at the King Soopers shopping center. The actual leases at the subject were averaging at \$24.00 per square foot; however, the Board was persuaded that during the base valuation period the rents would be less than the actual average rents because of the decline in the overall rental market. The Board concluded to a market rate of \$20.00 per square foot for the non-anchored space at the subject property. This value is more in line with the rents from the centers closest to the subject.

The rental rate applied was the biggest difference between the parties' reports. The other data used in the income approach was relatively similar in the two reports. The Board applied a capitalization rate of 9% which was more reflective of the data presented in the Burbach study in Petitioner's report, but slightly below the 9.5% applied by Petitioner. The

vacancy rate of 15% which was used by both parties. The Board applied an expense rate of 15% which derived a similar total dollar amount applied in both reports.

The subject's 2011/2012 value is recalculated by the Board as follows:

Gross Income			
Net Rentable Sq. ft.	58,580 @	\$ 8.75	\$ 512,575
	<u>34,838 @</u>	<u>\$ 20.00</u>	<u>\$ 696,760</u>
Total	93,418		\$ 1,209,335
Vacancy Rate	15%		<u>\$ 181,400</u>
Effective Gross Income			\$ 1,027,935
Operating Expenses	15%		<u>\$ 154,190</u>
Net Operating Income			\$ 873,745
Overall Rate			9%
Indicated Value			\$ 9,708,273
per square foot			\$ 103.92
rounded			\$ 9,708,000

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the 2011 and 2012 actual value of the subject property should be reduced to \$9,708,000; adding the value of the retail pad stipulated to as \$341,336. the total market value for the subject is \$10,049,336.

**ORDER:**

Respondent is ordered to reduce the 2011 and 2012 actual value of the subject property to \$10,049,336.

The Douglas 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).

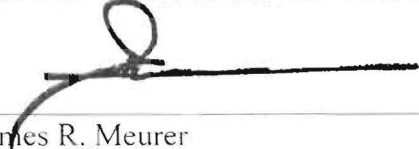
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 17th day of May, 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

