

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>AVI AND ORNA LAVIAN,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARAPAHOE COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 60601</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 7, 2013, James R. Meurer and Brooke B. Leer presiding. Mr. Avi Lavian appeared pro se on behalf of Petitioners. Respondent was represented by George Rosenberg, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax year 2010.

Subject property is described as follows:

**14707 East 2<sup>nd</sup> Avenue, Aurora, Colorado**  
**Arapahoe County Schedule Number: 1975-07-1-07-011**

The subject property is a four story, multi-tenant, Class B office building containing 61,384 rentable square feet. The building was built in 1982 and updated prior to Petitioner's purchase in September of 2007. Mr. Lavian testified that the subject was not in as good condition as it was represented to him prior to the purchase.

Petitioners presented parts of an appraisal that was prepared for financing purposes prior to Mr. Lavian's purchase of the subject. The appraisal was within the time period of valuation, however no supporting expert testimony was given by the appraisers and, according to Mr. Lavian, the appraisal was not reflective of the value of the property.

The applicable base period for collecting data for valuing the subject is January 1, 2007 to June 30, 2008. Petitioners purchased the subject office building during the base period for \$8,625,000. Mr. Lavian testified that he paid too much based on the condition of the building and the tenancy. Mr. Lavian contended that in his opinion the value of the subject property for

tax year 2010 should be \$2,000,000; he did not present data within the valuation period to support this value.

Respondent presented the following indicators of value:

Cost Approach:	N/A
Market Approach:	\$4,100,000
Income Approach:	\$4,000,000

In applying the Market Approach to value, Respondent presented five comparable sales ranging in sale price per square foot from \$59.54 to \$140.51. After adjustments were made, the comparables ranged in values from \$65.49 to \$72.13 per square foot. The major adjustments were for date of sale, access/visibility, building quality/condition, occupancy rate and parking ratio. Respondent concluded to a value of \$67.00 per square foot or \$4,100,000 by the Market Approach.

Respondent also developed the Income Approach to derive a value of \$4,000,000 for the subject property. Respondent presented ten comparable rentals, ranging in rental rates per square foot from \$11.75 to \$18.50. Respondent applied a gross rental rate of \$14.00 for the subject, full service, to derive an income of \$859,376. A vacancy/collection loss was applied at 10%, operating expenses were applied at \$6.00, and the capitalization rate was applied at 8.0% with an effective tax rate of 2.10%.

Respondent reconciled to an actual value of \$4,000,000 for the subject property for tax year 2010.

Petitioners did not present sufficient evidence to refute Respondent's opinion of value at \$4,000,000. Petitioners' information regarding repair work was not well documented and was dated after the base period.

Colorado case law requires that "[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 Board concludes that Petitioners have not met that burden of proof.

Mr. Lavian provided a written closing statement to the Board after the hearing. The closing statement was accepted, however no weight was placed on the statement as it was filed ex-parte and was not a part of the record before the Board at the hearing.

## **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 for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision 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 when Respondent alleges procedural errors or errors of law by the Board.

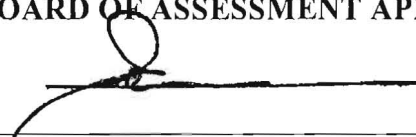
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 27th 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.

  
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Milla Crichton