

<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>MILLERCOORS, LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 60710</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on September 16, 2013, James R. Meurer, MaryKay Kelley and Gregg Near presiding. Petitioner was represented by Alan Poe, Esq. Respondent was represented by Kathryn L. Schroeder, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2009 and 2010.

Subject property is described as follows:

**5400 Pecos Street  
Unincorporated Adams County, CO  
Adams County Schedule No. R0137581**

The subject property consists primarily of a large distribution warehouse building designed for deliveries of beer to local suppliers of their product. The building contains offices, a training room, warehouse areas for acceptance of deliveries either by rail or by truck, and a cooler. The building is designed for up to six rail cars to be unloaded within a covered dock. There is also a separate truck wash building.

Petitioner presented the following indicators of value:

Market:	\$11,100,000
Cost:	\$11,200,000
Income:	\$10,900,000

Petitioner's witness, Mr. Gene Goble, Controller for Coors Distributing Company, described how the building came to be included in the joint venture between Molson/Coors and Miller S.A.B to be known as MillerCoors, LLC. The joint venture resulted in the merger of the subject warehouse and distribution facility into the new entity. Twenty seven different beer suppliers ship their product to the facility by either rail or truck. Beer is then shipped out to distributors and then on to the retailers. Mr. Goble testified the building contains approximately 50,000 square feet of office space including a training room. The remainder is a warehouse that includes a 30,000 square foot cooler. There was also a separate truck wash building located on the property during the valuation period but later removed. Mr. Goble further stated that a decision to expand led to research convincing him that the subject property was overvalued for assessment purposes.

Petitioner's next witness, Mr. Kevin A. Kernen, a Certified General Appraiser, testified that the market approach was the most appropriate way to value the subject. Mr. Kernen presented four comparable sales ranging in sale price from \$4,067,200 to \$17,100,000 and in size from 102,970 to 318,850 square feet. After adjustments were made, the sales ranged from \$44.48 to \$64.36 per square foot of building area. Mr. Kernen concluded to a unit value of \$50.00 per square foot and applied this value to the building area for a value opinion of \$11,100,000.

Mr. Kernen presented a cost approach to derive a market-adjusted cost value for the subject property of \$11,200,000. Four comparable land sales were considered and an adjusted range of \$2.18 to \$3.78 per square foot of land was derived. A final unit value of \$2.75 per square foot and a value opinion of \$3,000,000 was concluded. Mr. Kernen used the Calculator Section of the Marshall Valuation Service Cost Manual to determine a base cost for the building and site improvements. After additions for direct and indirect costs, a replacement cost new of \$11,001,163 was concluded. After adjustment for physical and economic forms of depreciation and after addition of the land value an opinion of \$11,200,000 was produced.

Mr. Kernen presented an income approach to derive a value of \$10,900,000 for the subject property. Five comparable rentals were reported. After adjustments were made, the rental rates ranged between \$4.46 and \$4.83 per square foot on a triple net basis. He concluded to a market rent of \$4.60 per square foot. Mr. Kernen determined the property's potential gross income of \$1,024,678 and subtracted a vacancy and collection allowance. Additional operating expenses were deducted from the collected income to derive the net operating income of \$842,962. A capitalization rate was then estimated from analysis of sales of leased industrial properties that occurred during the valuation period. Additional information from third party publications was also considered. A capitalization rate of 7.75%, adjusted for property taxes, was concluded. Application of that rate to the subject's net operating income produced an indication of \$10,900,000.

Based primarily on the market approach, with secondary consideration to the income approach and the cost approach, Mr. Kernen reconciled to an indicated value of \$11,100,000 for the subject property.

Following testimony from Respondent, Petitioner agreed that Mr. Kernen's analysis did not separate the personal property portion of the subject represented by the cooler equipment and other

special features. Petitioner conceded that these items should have been subtracted in order to determine the value attributable to the real estate.

Petitioner is requesting a 2009 actual value of \$10,682,973.

Petitioner is requesting a 2010 actual value of \$10,809,675.

Respondent presented the following indicators of value:

Market:	\$14,610,000
Cost:	\$14,414,000
Income:	\$14,073,000

According to Respondent, the above values do not include the additional value of a rail spur at \$1,500,000; the spur was inadvertently left off the tax rolls during the valuation period.

Respondent's appraiser, Edward Hermann, a Certified General Appraiser, presented a market approach consisting of seven comparable sales ranging in sale price from \$12,575,000 to \$20,116,000 and in size from 222,756 to 300,300 square feet. Mr. Hermann first subtracted the land value from each of the sales. Then the improvements were compared and after adjustments were made, the sales ranged from \$51.11 to \$51.87 per square foot of building area without land. Mr. Hermann concluded to a unit value of \$52.00 per square foot of building area, or, \$11,583,312. After adding land value of \$3,021,873 the value by the market approach was reported to be \$14,610,000. After addition of the value of the rail spur, the conclusion was \$16,105,185.

Mr. Hermann used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$14,414,000. Seven comparable land sales were presented and an adjusted range of \$2.30 to \$3.86 per square foot of land was derived. A unit value of \$3.29 per square foot was concluded from these sales. This figure was further adjusted by separating seven acres as inferior in utility and valuing this portion at \$1.32 per square foot. Mr. Hermann then concluded to a unit value of \$2.77 per square foot for the total land area and a value opinion of \$3,021,596. A base cost for the building was determined by use of a combination of sources including Marshall and Swift, CAMA – Realware and commercial market data. A unit price of \$52.20 per square foot of building area was determined and applied to the improvement area. An addition of 12% of the base cost was applied for indirect costs, and after addition of site improvements, a replacement cost new of \$15,844,444 was concluded. After adjustment for physical and economic forms of depreciation and after addition of the land value, an opinion of \$14,414,000 was produced. After addition of the value of the rail spur, the conclusion was \$15,914,000.

Mr. Hermann presented an income approach to derive a value of \$14,073,000 for the subject property. Comparable rentals, primarily obtained from the Assessor's records, were provided for industrial, office/flex and call centers. Rents were applied to the various components of the building depending upon use. He concluded to an overall market rent of \$6.93 per square foot. Mr. Hermann determined the property's potential gross income and subtracted a vacancy allowance. Additional operating expenses were reduced from the collected income to derive a net operating income of \$1,437,493. A capitalization rate was estimated from an array of sales from 2003 through 2008 with

a median rate of 7.24% determined for larger buildings. An “Effective Cap Rate” of 10.21% was applied to the subject's net operating income to produce an indication of \$14,073,000. After addition of the value of the rail spur, the conclusion was \$15,573,000.

Mr. Hermann placed the greatest reliance upon the indication obtained by use of the cost approach and concluded to a final value opinion of \$14,420,000. After addition of the value of the rail spur, the conclusion was \$15,920,000.

Petitioner contends that Respondent’s appraiser incorrectly applied the market approach by including and relying upon the assigned value applied to the property upon the establishment of the joint venture known as MillerCoors LLC. According to Petitioner, this was not an arm’s length transaction. Petitioner argued that Respondent’s market approach analysis inappropriately relies upon a publication related to the appraisal of religious facilities and the adjustments made to the sales were not explained and in one case were inexplicably identical. Petitioner questions Mr. Hermann’s position that the property is a special use and disputes the validity of primary reliance upon the cost approach for a property constructed in 2001. Petitioner also questions Mr. Hermann’s application of the income approach due to repeated declarations the capitalization rate is lower for owner occupied properties. Petitioner emphasized that Respondent’s appraiser produced a value in use analysis that is not representative of value in exchange.

Respondent contends that Petitioner’s appraiser made a serious error in the cost approach that resulted in an understatement of the subject’s value. The assigned value given the property by the joint venture should be considered indicative of market value. Respondent also suggests Mr. Kernan did not apply sufficient value to the rail spur, the potential for expansion at the existing location, and that Mr. Hermann’s cost approach was superior.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2009 and 2010 valuations of the subject property were incorrect.

The Board was not persuaded by Respondent’s valuation. Primary reliance upon the cost approach to value did not seem appropriate when both parties were able to provide numerous sales and leases for similar properties. The Board was further frustrated by insufficient support given to the capitalization rate and the unit value for the base cost of improvements provided by Respondent’s appraiser. Regarding the value of the rail spur, the Board cannot increase the value determined by the Adams County Board of Commissioners and Section 39-5-125, C.R.S. should be followed in recapturing omitted property.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$10,682,973.

The Board concludes that the 2010 actual value of the subject property should be reduced to \$10,809,675.

**ORDER:**

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2009 actual value for the subject property of \$10,682,973.

Respondent is ordered to cause an abatement/refund to Petitioner, based on a 2010 actual value for the subject property of \$10,809,675.

The Adams 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 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).

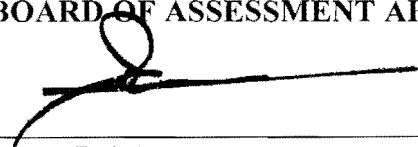
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

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 15th day of October, 2013.

**BOARD OF ASSESSMENT APPEALS**



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James R. Meurer

MaryKay Kelley

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MaryKay Kelley

Gregg Near

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Gregg Near

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

Milla Lishchuk

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Milla Lishchuk

