

| | |
|---|---|
| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>QUEBEC VILLAGE PARTNERS,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 60196 and 60960</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on September 24, 2012, Diane M. DeVries and Brooke B. Leer presiding. Petitioner was represented by Barry J. Goldstein, Esq. and Kendra L. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 and 2012 actual values of the subject property.

Subject property is described as follows:

8151 South Quebec Street, City of Centennial, Arapahoe County, CO
Assessor's Parcel Number: 2075-32-4-21-001

The subject property is a free standing, concrete and masonry retail building. It is leased by Walgreens. It is one level and was built in 1993. It is 12,928 square feet.

Petitioner is requesting an actual value of \$1,960,000 for the subject property for tax years 2011 and 2012. Respondent assigned a value of \$2,327,000 for the subject property for tax year 2011. This value is the maximum value determined by Respondent at the CBOE. Respondent's appraisal presented at the hearing had a much higher value conclusion of \$3,600,000. The Board has addressed the differences in the valuation procedures used by Petitioner and Respondent and selected the method of analysis the Board finds most appropriate for ad valorem purposes for this property type.

Petitioner's expert witness, Christopher N. Baker, Certified General Appraiser, appraised the subject property with a date of value of June 30, 2010. He appraised the fee simple estate applying

the sales comparison approach and income capitalization approach. He concluded the highest and best use of the subject as general retail. The Board agrees with Petitioner's highest and best use conclusion. The subject property is a small to mid size retail facility in a good location with excellent traffic patterns.

Petitioner's appraiser presented an income capitalization approach and used rental data from two former Walgreens offered for lease at \$15.00 and \$16.00 per square foot, one in Parker and the other in west Denver on Colfax. The other rent data offered was for facilities not close to the subject property. There were two Office Depot buildings and an Ultimate Electronics. The properties were rented for \$13.50 to \$17.60 per square foot. A market rent of \$15.00 per square foot was applied to the subject building. The Board concludes the market rent applied is on the low end of the presented data for the subject property and should be higher based on the demographics that were presented for the subject area. The vacancy rate applied at 8% is on the high side; 5% is more acceptable. Some minimal deductions for management and replacement reserves are appropriate as applied.

Petitioner's witness also presented the sales comparison approach to value the subject. The retail sales used were in different areas than the subject and ranged from \$136.17 to \$174.75 per square foot. Two listings were presented, one of a former Walgreens and the other of an Office Depot and ranged from \$151.41 to \$159.98 per square foot. After adjustments were made, the sales ranged from \$136.17 to \$157.28. The subject area is better than the areas where the sales were gathered and it is difficult to make the required location adjustments to reflect the excellent location of the subject property. Retail sales in areas with similar demographics would be better to use for comparison. The Board concludes the value applied by Petitioner's appraiser to the subject by the sales comparison approach should be higher than that indicated at \$150.84.

Petitioner did not present a cost approach. This is acceptable based on the age of the subject property.

Respondent's expert witness, Gary Mycock, Certified General Appraiser, appraised the fee simple estate of the subject property with an effective appraisal date of June 30, 2010. The appraiser applied all three approaches to value the subject property. Mr. Mycock's conclusion of the highest and best use of the subject property is a free standing single user retail building as part of a larger shopping center. In the analysis presented, the data used in general was reflective of the value for a Walgreens store, based primarily on data from other Walgreens facilities. The actual rental data from other Walgreens was applied in the income capitalization approach with adjustments. The sales of other operating Walgreens facilities were used, with the above market rents in place at the time of sale, and adjustments were applied.

Respondent's valuation presumes that the subject property will likely continue as a drugstore and argues that the data from other drugstores, with adjustments, that reflect the fee simple interest, should be the primary data used to value the subject property.

The Board concludes that the adjustments should be significant enough to be reflective of what other well located retail facilities are being sold and rented for in the open market. Sales and leases of drugstores to other drugstore users would be the ideal data to use in the valuation of the

subject. No data was gathered of these sales or leases. The testimony of Ms. Anna Pelts, a Walgreens employee and witness for Petitioner, indicated drugstores generally do not sell or lease to other drugstore users in Colorado. She testified that most sales and lease agreements involving Walgreens facilities restrict them from being sold to a similar user.

The Board concludes that the market for the subject, if available on the open market for sale or lease, as of June 30, 2010, would be to a single tenant retail user. Some adaptations may be necessary to the subject to attract a user. Sales and rental data from other free standing retail facilities in the area would be the most helpful in valuing the fee simple interest of the subject.

The adjustments applied to the sales, rents and cost, in Respondent's appraisal report were not sufficient enough to be reflective of what the general retail user would be willing to pay for the subject property in a fee simple interest. The conclusion of \$3,600,000 from Respondent's appraisal report significantly overstates the fee simple market value of the subject for the 2011 and 2012 valuation years.

The Board has primarily placed the most weight on valuing the subject property for ad valorem purposes on the data presented in Petitioner's report. The data presented however tends to understate the value of the subject property in its particularly good location, with strong demographics and excellent traffic patterns. The Board's comments regarding Petitioner's data and values are noted earlier.

The Board considered and read both articles presented at the September 24, 2012 hearing, Petitioner's Exhibit C, and Respondent's Exhibit 1, Addendum F. The Board also accepted Petitioner's data related to equivalency in valuation, however no testimony was allowed concerning it. The Board concluded that sufficient information was presented at the hearing to reach the decision.

To estimate a market value of the subject property, as of June 30, 2010, the Board applied the following values using the income capitalization approach:

Market rent- \$17
Vacancy rate- 5%
Management fee- 3%
Reserves- \$.10 per square foot
Capitalization rate- 8.5%-9.0%

The data above suggested a value range of \$173.00 to \$183.00 per square foot for the subject property.

The sales data presented by Petitioner's appraiser in the sales comparison approach was not in the subject area. The Board concludes that sales data in the subject area or areas with similar demographics would result in a higher per square foot conclusion than \$150 per square foot used by Petitioner's appraiser. Applying a more significant upward adjustment for the excellent location of

the subject to the sales data presented, suggests a value range of \$150.00 to \$183.00 per square foot. Again, using data in the subject area is preferred by the Board as more pertinent.

The Board concludes to a value based on the parameters applied, toward the top of the sales range and towards the middle of the value range based on the income analysis of \$175.00 per square foot for the subject property; \$175.00 per square foot applied to the subject's 12,928 square feet, indicates a subject value of \$2,262,400.

ORDER

The Arapahoe County Assessor is directed to change the 2011 and 2012 actual value of the subject property to \$2,262,400.

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 5th day of October, 2012.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Brooke B. Leer

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

Milla Crichton

