BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **CORUM CHERRY CREEK LLC,** v. Respondent: **ARAPAHOE COUNTY BOARD OF EQUALIZATION.**	**Docket No.: 62213**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 21, 2014 Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

600 & 650 South Cherry Street, Glendale, CO
Arapahoe County Parcel Nos. 1973-18-2-04-013 and 1973-18-2-00-063

The property consists of two, 13 story high-rise office towers containing a rentable building area, including basement, of 313,959 square feet. The buildings are located in the City of Glendale, east of S. Colorado Blvd. in Arapahoe County. The building located at 600 S. Cherry St. was constructed in 1974 and contains 151,360 square feet, and the building located at 650 Cherry St. was constructed in 1979 and contains 162,599 square feet. A single-story corridor connects the two buildings to the rear of the structures, and each building contains a small fitness center available to the tenants, as well as storage areas. Standard office tenant finish consists of suspended ceilings, painted drywall partitions, fluorescent and incandescent lighting, and carpet and tile floors. HVAC is via a central boiler and chiller, and there are ten elevators in the buildings. In addition to the towers, there is a three and four level detached parking garage. Including surface parking, there is a total of 1,062 parking spaces, 651 of which are covered in the garage, which equates to approximately 3.38 spaces per 1,000 square feet of rentable area. The buildings were reported to be 82% occupied as of the valuation date. Total land area is 5.6 acres.

According to the exhibits and testimony, the buildings are in average condition considering their age and quality of construction; however do suffer from deferred maintenance. The building components suffering from deferred maintenance include, but are not limited to, HVAC systems including boilers and chillers, lighting, doors and door hardware, garage structure and paving, smoke pressurization system, emergency generator, and roofs. Petitioner estimates the total cost of deferred maintenance to approximate $8,301,749. In addition, Petitioner claims necessary capital improvements should equate to $3,500,000.

Petitioner is requesting an actual value of $15,600,000 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of $25,500,000 for tax year 2013. The Board of Equalization's (BOE) assigned value for tax year 2013 was $27,800,000.

Petitioner presented the following indicators of value:

Cost:	Not Developed
Market	$17,300,000
Income:	$15,600,000

With primary emphasis on the income approach which included a deduction of $4,831,507 for deferred maintenance, Petitioner concluded to an indicated value of $15,600,000 for the subject property.

Petitioner's witness, Mr. Mike Walter of 1st Net Real Estate Service Inc., presented a market (sales comparison) approach that included five comparable sales ranging in sales price from $13,000,000 to $16,200,000, and in rentable size from 169,369 square feet to 238,357 square feet. After adjustments were made, the sales ranged from $45.37 to $64.57 on a per square foot basis. The major adjustments to these comparable sales consisted of age, occupancy level, and condition (e.g. deferred maintenance). Petitioner reconciled the adjusted sales at $55.10 per square foot resulting in an indicated value of $17,300,000.

Petitioner also presented an income approach to derive a value of $15,600,000 for the subject property. A direct capitalization model was used and consisted of income estimated at $17.55 per square foot, full service plus additional income of $350,000. A long term vacancy and collection factor was estimated at 18%, and expenses were estimated at $8.50 per square foot or $2,668,652. The net operating income of $2,199,532 was then capitalized at a 10.78% overall rate (8.0% base rate plus a 2.78% tax load) resulting in an indicated value of $20,403,822 via the income approach prior to a deduction for deferred maintenance. Petitioner subtracted an estimated discounted cost to cure of $4,831,507 for deferred maintenance resulting in a net value of $15,600,000 via the income approach. This net value equates to $49.69 per square foot of rentable area.

In addition to Mr. Walter, Petitioner's witness Mr. Mike Komppa, President of Corum Real Estate Group testified regarding the physical characteristics of the building. This testimony addressed the necessity for multiple updates and repairs, specifically regarding mechanical systems and ADA compliance, to keep the building competitive. Mr. Komppa testified that a typical buyer would factor the cost of these repairs into a purchase price for the subject, and that repairs of this nature are necessary to maintain tenant occupancy. Mr. Komppa stated that, in his opinion, completing these updates and repairs would not translate into the increased rental rates for the subject buildings.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market	$25,750,000
Income:	$26,000,000

Respondent concluded to an indicated value of $25,500,000 including a deduction for deferred maintenance.

Respondent's witness, Mr. Mark Kane, a Certified General Appraiser with Arapahoe County Assessor's Office, presented a market approach that included five comparable sales ranging in sales price from $11,550,000 to $62,050,000 and in size from 130,998 to 594,107 square feet. One of the comparables was located in the Glendale submarket, and the remaining four were located in Aurora and the DTC submarkets. The major adjustments to the comparable sales were for location, square footage, age, condition, parking, and level of leasing. Respondent reconciled the adjusted sales at $85.00 per square foot resulting in an indicated value of $25,750,000 via the market approach. No deduction for deferred maintenance was taken by Respondent in the market approach.

Respondent also presented an income approach. A direct capitalization model was used and consisted of income estimated at $18.00 per square foot full service. Miscellaneous income was estimated at $520,000. A long term vacancy and collection factor was estimated at 15% and operating expenses were estimated at $7.50 per square foot or $2,272,733. The net operating income of $2,805,642 was then capitalized at a 10.78% overall rate (8.0% base rate plus a 2.78% tax load) resulting in an indicated value of $26,026,362 rounded to $26,000,000 via the income approach. No deduction for deferred maintenance was taken by Respondent in the direct capitalization model.

Respondent's witness placed equal weight on both approaches to arrive at a reconciled value of $25,850,000. Respondent then deducted $350,000 for deferred maintenance based on inspection of the property and information provided to Respondent, resulting in a concluded market value of $25,500,000 for the subject for tax year 2013.

Mr. Kane further testified that Petitioner understated rents and overstated vacancy in their analysis, and that given previous renovations to the buildings, the methodology used by Petitioner to calculate deferred maintenance constituted a speculative future value rather than a true, fee simple "as is" value for the property.

The Board concludes that, given the physical and economic characteristics of the property, the income approach best reflects a supportable market value for the subject property.

Given this conclusion, a comparison of the variables used in Petitioner's and Respondent's income approaches and direct capitalization models are found in the following table:

Variable	Petitioner	Respondent
Rentable Square Feet	313,959	303,231
Rent PSF	$17.55	$18.00
PGI	$5,509,980	$5,458,158
Vacancy/Collection	18.0%	15.0%
Additional Income	$350,000	$442,000
EGI	$4,868,184	$5,078,374
Expenses PSF	$8.50	$7.50
Expenses	$2,668,652	$2,272,733
NOI	$2,199,532	$2,805,642
Overall Rate + Tax Load	10.78%	10.78%
Indicated Value	$20,403,826	$26,026,362

The sources and support for these variables are found in the parties' exhibits. The major difference between the two sets of metrics appears to be the estimate of the additional income and the operating expenses. It was testified that a portion of Respondent's additional income estimate contained reimbursements from tenants that Petitioner indicated was already included in their numbers.

After review of the direct capitalization models provided by Petitioner and Respondent, and the variables used in those models, the Board concludes that Petitioner provides sufficient probative evidence that their numbers most accurately reflect the operation of the subject property as of the valuation date. The only exception the Board takes to these numbers is the estimate of expenses of $8.50 per square foot by Petitioner. Based on a review of the narrative contained in Petitioner's Exhibit 1, Page 27 and Respondent's Exhibit A, Page 62 and 63, it would appear that expenses equating to Respondent's $7.50 per square foot are most indicative of both the operation of the building and market conditions. A reconstructed direct capitalization model reflecting the variables concluded by the Board is as follows:

	Board Conclusion
Rentable Square Feet	313,959
Rent PSF	$17.55
PGI	$5,509,980
Vacancy/Collection	18.0%
Additional Income	$350,000
EGI	$4,868,184
Expenses PSF	$7.50
Expenses	$2,354,693
NOI	$2,513,492
Overall Rate + Tax Load	10.78%
Indicated Value	$23,316,248

Based on the above, the Board concludes that the value of the subject, prior to deduction for any deferred maintenance, is $23,316,248.

The most significant issue relative to the final values proposed by the parties is the deduction, if any, for the deferred maintenance that exists in the subject. As noted, Petitioner estimates the discounted cost to cure deferred maintenance at $4,831,507, and Respondent estimates this cost at $350,000. It appears that both parties concur that deferred maintenance exists, however differ significantly on the estimate and application of the cost to cure.

Relative to deferred maintenance, the Board finds that the testimony provided by Mr. Komppa was convincing, specifically in regards to the items needing updating, the cost of these items, the necessity to cure this deferred maintenance to maintain a competitive leasing level, and how these items would be viewed by a potential investor in the buildings.

Given the above, the Board concludes that the costs to cure the deferred maintenance provided by Petitioner are reasonable, and the discounting of these costs over a 12 year period at a 9.50% rate is also a reasonable methodology to estimate the net cost as of the valuation date. The discounted value of $4,831,507 equates to $15.39 per square foot of gross building area which would appear, based on testimony and exhibits, a supportable and reasonable deduction for buildings of this use, vintage, and type of construction. Subtracting this conclusion of the cost to cure the deferred maintenance of $4,831,507 from the previously Board concluded value via the income approach of $23,316,248 equates to a market value of $18,485,000, rounded.

Based on the conclusions stated above, and after careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

The Board concludes that the 2013 actual value of the subject property should be reduced to $18,485,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to $18,485,000.

The Arapahoe County Assessor is directed to change his 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-nine 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-nine 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 11th day of June, 2014.

BOARD OF ASSESSMENT APPEALS

Diane M. Devries

James R. Meurer

SEAL

STATE OF COLORADO

BOARD OF ASSESSMENT APPEALS

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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