

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MARK MEYER AND SUE MITCHELL,</p> <p>v.</p> <p>Respondent:</p> <p>TELLER COUNTY BOARD OF EQUALIZATION</p>	<p>Docket No.: 63028</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 10, 2014, MaryKay Kelley and James R. Meurer presiding. Petitioners were represented by Sam Cameron, tax agent. Respondent was represented by Matthew Niznik, Esq. Petitioners are protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**107 Sundial Drive, Woodland Park, CO
Teller County Schedule No. R000884**

The property consists of a 1½ story, 6,037 gross square foot partially tenant-occupied commercial office building located in the Town of Woodland Park. The structure is frame with stucco and stone veneer, and was constructed in 2006. The gross square footage includes a 2,754 square foot basement, lot size is 1.33 acres, and zoning is commercial through Woodland Park. There is a 671 square foot built-in garage. The overall condition of the property is considered to be average and only the basement was occupied as of the date of value.

Petitioners are requesting a value of \$348,000 for tax year 2013. Respondent provided an appraisal reflecting a value of \$682,864; however is deferring to the Board of Equalization's (BOE) assigned value of \$605,631 for tax year 2013.

Petitioners presented the following indications of value:

Cost:	Not Developed
Market	\$348,000
Income:	Not Developed

Petitioners' agent, Mr. Sam Cameron provided five sale comparables. These comparables included the sale of the subject in May of 2010 for \$620,600. The sale prices of the comparables ranged from \$275,000 to \$651,000, and all of the transactions occurred during the statutory or extended base periods. No adjustments were applied to these comparables. The average of the sales prices equated to \$105.60 based on the above grade area of the buildings. Mr. Cameron applied this average of \$106.00 (rounded) to the above grade square footage of the subject of 3,283 to arrive at his rounded estimated value of \$348,000.

Mr. Camron argued that the conclusion of land value was excessive, and that Teller County incorrectly inflated the indicated price per square foot of their comparables by using the only the above-grade area rather than the gross building area. Mr. Cameron further argued that there was no justification for Teller County raising the value of the property at the Board of Equalization level to the current assigned value of \$605,631 from the previous value of \$431,358.

Respondent presented the following indications of value:

Cost:	\$754,426
Market	\$682,864
Income:	Not Developed

Respondent's witness, Ms. Betty Clark-Wine, the Teller County Assessor, presented a cost approach based on data derived from Marshall Valuation Service reflecting a replacement cost for the subject of \$520,316. Ms. Clark-Wine estimated physical depreciation at 5% of cost new based on data from an age/life calculation resulting in a replacement cost new for the subject of \$494,299. Respondent's witness testified that she did not deduct any functional or economic obsolescence. The depreciated cost was then added to land value of \$260,127 (\$4.49 per square foot) to reflect a value via the cost approach of \$754,426.

Ms. Clark-Wine developed a market (sales comparison) approach and presented three comparable sales to support her opinion of value. Sale prices ranged from \$450,000 to \$580,000 prior to adjustments, or \$120.56 to \$177.26 per square foot. The sale of the subject was also referenced at \$189.00 per square foot. All of the comparable sales occurred in the statutory or extended base period. Qualitative adjustments were made for quality and improvement size resulting in an estimate of \$208.00 for the subject or \$682,864. Most weight was given to Comparables No. 1 and 2 in the final conclusion of value via the market approach.

Ms. Clark-Wine discussed Petitioners' comparable sales, questioning building sizes provided by CoStar and considering none of them superior comparisons to her sales. Sales One and Four were presented by both parties. Sale Two was an older building (1984) and in

disrepair. Sale Three was considerably older (1948) and was impacted by highway exposure. Sale Five was the subject property.

The primary areas of disagreement between Petitioner and Respondent consisted of the value of the land, and the correct price per square foot of the comparables to use for comparative purposes.

Petitioner presented insufficient probative evidence and testimony to prove that the tax year 2013 valuation of the subject property was incorrect.

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). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that the variables used in Respondent’s market approach were not sufficiently impeached by Petitioner to allow the Board to consider a change in the assigned value. The Board also finds Respondent’s sales more similar and indicative of value for the subject property. It is the conclusion of the Board that the three comparables used in Respondent’s market approach are relatively similar to the subject given location and the physical characteristics of the building and, once adjusted, reflect a reasonable value for the property at \$208.00 per square foot or \$682,864. The Board also concludes that the sale of the subject in May of 2010 for \$620,600 further supports the (BOE) assigned value of \$605,631 for tax year 2013.

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-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 19th day of February, 2014.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

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

Milla Lishchuk

Milla Lishchuk

James R. Meurer

