

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 63080

Petitioner:

CSHV DENVER TECH CENTER, LLC,

v.

Respondent:

ARAPAHOE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 31, 2014, Debra A. Baumbach and James R. Meurer presiding. Petitioner was represented by F. Brittin Clayton III, 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:

**Millennium Plaza
6200 South Quebec Street, Greenwood Village, Colorado
Arapahoe County Parcel No. 2075-21-2-09-003**

Petitioner requested that Exhibits 1-5 be accepted by the Board. Respondent objected to the admission of Petitioner's Exhibits 1 and 2 (the appraisal and appraisal update on the subject property prepared by Integra Realty Resources) on the grounds that the valuation in these exhibits was based on the leased fee estate, rather than the fee simple estate. The objection was sustained by the Board. All of the other exhibits offered by Petitioner and Respondent were subsequently accepted by the Board.

The subject of this appeal consists of a Class B office building containing four stories, constructed as a series of interconnected building pods. The L-shaped building contains a total of 349,513 gross square feet, and 330,033 net rentable square feet. Year of construction is 1982, and the subject is reported to be in average to good condition as of the valuation date. Parking for the building consists of two underground parking garages containing ±184 spaces, plus ±1,100 surface spaces. Site size approximates 26.08 acres, and the parcel benefits from being a

dual corner site. The building is designed as single-tenant, and is 100% occupied by First Data Corporation.

Petitioner is requesting an actual value of \$20,039,600 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of \$36,300,000 for tax year 2013. The Board of Equalization's (BOE) assigned value for tax year 2013 was \$37,000,000. Respondent is recommending a reduction in value to the appraised value of \$36,300,000.

As noted, Petitioner's appraisals (Exhibits 1 and 2) were not admitted by the Board.

Petitioner's first witness, Mr. Sergio Castaneda, Senior Vice President, Brokerage Services, CBRE is the leasing agent for the subject, who testified regarding the physical characteristics and rentability of the subject. Mr. Castaneda stated that the building was designed, given its multiple levels, for a single tenant, and that finding a tenant to occupy this type and amount of space was extremely rare. Mr. Castaneda further testified that a triple net (NNN) lease structure is indicative of this type of space, and that market rental rates, considering the inutility of the building, would range from \$5.00 to \$8.00 per square foot triple net, depending on the terms of the lease. Mr. Castaneda confirmed the \$5.17 NNN actual rental rate for the subject as of the valuation date, and indicated that attempting to retrofit the building to accommodate multiple tenants would most likely not be economically feasible.

Petitioner's second witness Mr. Barry Johnson, MAI of Integra Realty Resources also testified on Petitioner's behalf. Relative to Respondent's appraisal, Mr. Johnson stated that the rental rate used by Respondent was unrealistically excessive, and that significant costs would be required to achieve this rate. Mr. Johnson further testified that the adjustments to the comparables in Respondent's sales comparison (market) approach lacked support, and did not account for the physical limitations and functional inutility of the building.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market	\$36,300,000
Income:	\$36,400,000

Respondent concluded to an indicated value of \$36,300,000 for the subject property for tax year 2013.

Respondent called no witnesses on its behalf, relying solely on an appraisal and cross examination of Petitioner's witnesses to support Respondent's opinion of fee simple value.

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.

Relative to the limitations resulting from the physical characteristics of the building, the Board finds that the testimony provided by Mr. Castaneda was convincing, specifically in terms

of market rental rates for this type of building, and the lack of a market for tenants resulting from the size and design of this type of property.

After review of the direct capitalization model provided by Respondent, and the testimony of Petitioner’s witnesses, the Board concludes that variables used in Respondent’s direct capitalization model are reasonable, with the exception of the market rental rate. A reconstructed direct capitalization model reflecting the variables concluded by the Board is as follows:

Rentable Square Feet	330,033
Rent PSF	\$7.00
PGI	<u>\$2,310,231</u>
Vacancy/Collection	10.0%
Additional Income	<u>\$0</u>
EGI	\$2,079,208
Expenses 8%	<u>\$0.00</u>
Expenses	\$166,337
NOI	\$1,912,871
Overall Rate + Tax Load	<u>7.50%</u>
Indicated Value	\$25,504.945

Based on testimony combined with the contractual rental rate of the subject and the income comparables provided by Respondent, the Board concludes that a market rental rate of \$7.00 per square foot NNN is supportable for the subject property given its size and physical characteristics. Based on these variables, the concluded value of the subject is \$25,500,000, rounded, which equates to \$77.27 per square foot.

Relative to additional support for the above, it was stated during testimony that it would cost a minimum of \$50.00 per square foot in improvements to bring the subject to a more rentable state, and the Board concurs with this estimate. Adding the \$50.00 per square foot to the concluded value above of \$77.27 per square foot equates to \$127.27 per square foot, which is bracketed by the sales price per square foot of the comparables found in Respondent’s market approach.

Based on the 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 \$25,500,000.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$25,500,000.

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 14th day of August, 2014.



BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

James R. Meurer

James R. Meurer

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

Milla Lishchuk