

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LAKWOOD FOUNTAIN LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 63610</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 27, 2014, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**320 S. Union Boulevard,
Lakewood, Colorado
Jefferson County Schedule No. R065390**

The parties stipulated to the admission of Mr. Todd Stevens and Ms. Darla Jaramillo as experts, as well as stipulated to the admission of Petitioner’s Exhibits 1 and 2, and Respondent’s Exhibits A and B.

The subject is a 3,774-square-foot freestanding automotive service building that is occupied by an entity related to the ownership, doing business as Big O Tire. The building was constructed in 1981 with only cosmetic updating completed since construction. The building is situated on a 17,000-square-foot site, which is accessible from northbound Union Boulevard.

Petitioner is requesting an actual value of \$500,000 for tax year 2013. Respondent provided an appraisal reflecting a value of \$1,300,000; however, Respondent is deferring to the Board of Equalization’s (BOE) assigned value for tax year 2013 of \$1,292,500.

Petitioner presented the following indicators of value:

Cost:	\$285,509
Market:	\$528,360
Income:	\$506,011

Mr. Olona, attorney representing Petitioner, called Mr. Todd Stevens of Stevens & Associates Cost Reduction Specialists, Inc. as Petitioner's first and only witness. Mr. Stevens described the subject property and emphasized that the location, access, and function of the older subject building was inferior to that of newer automotive service centers, and should be reflected in the value. Functional issues include small building size, lower ceiling height compared to newer buildings, and lower land-to-building ratio which results in issues with parking and outdoor storage.

The report prepared by Mr. Stevens contained a cost approach to value; however, little weight was reportedly given to this approach; therefore, testimony was also limited. A value of \$283,333 was concluded in the cost approach analysis; however, the reconciliation indicated a slightly higher value of \$285,509, with no explanation given to the adjustment.

Petitioner's witness presented a market approach consisting of five comparable sales ranging in sale price from \$70.11 to \$236.74 on a per square foot basis, and in size from 2,112 to 5,991 square feet. All five sales were used for some form of automotive repair at the time of sale. Petitioner's Sale 1 was eliminated during testimony, as it occurred outside the base period. After adjustments were made, the remaining four sales indicated a range from \$80.62 to \$189.39 per square foot. Mr. Stevens concluded to a value of \$140.00 per square foot for a value of \$528,360 based on the market approach.

Petitioner presented an income approach to derive a value of \$506,011 for the subject property. Mr. Stevens presented lease information for five automotive repair properties, concluding to a market rental rate for the subject of \$12.00 based on the indicated range of \$7.21 to \$13.00 per square foot. The analysis assumed that the tenant was responsible for all operating expenses, with the exception of management fee, structural maintenance, and reserves. Based on a rentable area of 3,774 square feet, annual gross income was calculated as \$45,288. A vacancy allowance deduction of 5% resulted in annual effective gross income of \$43,024. Two additional deductions were taken, including 3% for management fee and 3% for maintenance and reserves allowance. Net operating income was shown as \$40,481. This amount was capitalized at an 8.0% rate deduced from a mid-year 2012 investor survey to produce a value of \$506,011.

With the greatest reliance given to the cost and market approaches, Mr. Stevens concluded to a value of \$500,000.

Respondent presented the following indicators of value:

Market:	\$1,245,420
Cost:	Not applied
Income:	\$1,340,000

Mr. Mott, attorney representing Respondent, called Ms. Darla Jaramillo, a Certified General Appraiser with the Jefferson County Assessor's Office, as Respondent's first and only witness. Ms. Jaramillo testified that the subject was an average quality building that was in fairly good condition. She testified that the subject was located along a dense retail corridor, and that there was development occurring in the general area as of the date of value, including new hotels, office buildings, medical center and a light rail line.

Ms. Jaramillo presented a market approach consisting of four comparable sales ranging in sale price from \$244.27 to \$390.49 per square foot, and in size from 4,900 to 8,707 square feet. After adjustments were made, the sales ranged from \$272.10 to \$390.49 per square foot. Based on the simple adjusted average of the four sales, with slightly more weight given to Sale 2, Respondent's witness concluded to a value of \$330.00 per square foot or \$1,245,420 based on the market approach.

Respondent used the income approach to derive a value of \$1,340,000 for the subject property. General lease information was presented for six automotive service locations to determine market rent for the subject of \$29.00 per square foot net of expenses, for gross income of \$109,446. No deduction was deemed necessary for vacancy. A deduction of 2% was made for management expense, resulting in net operating income of \$107,257. A capitalization rate of 8% was applied, to indicate a value of \$1,340,000, rounded. Respondent's capitalization rate was also based on results of an investor survey.

Respondent concluded to a value of \$1,300,000 based on the two approaches to value; however, Respondent is deferring to the assigned value of \$1,292,500 for tax year 2013.

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

The Board was convinced through evidence and testimony that the subject was an older building that offered a smaller size and land-to-building ratio compared to newer buildings of this type. While the subject is located on a high traffic corridor, the Board was convinced that the access and location was inferior compared to most of the sales relied on by Respondent.

Two of the sales presented were relied upon by both Petitioner and Respondent:

- The October 2011 sale of a 8273 S Quebec Street in Centennial (Pet. Sale 3/Resp. Sale 3)
- A June 2009 sale of 18431 E Hampden Avenue in Aurora (Pet. Sale 5/Resp. Sale 4).

These sales indicated a narrow range in value of \$232.65 to \$236.74 per square foot prior to any adjustment. Petitioner adjusted these sales significantly downward, at 20% and 35%. Respondent applied upward adjustments of 15% to 21% to these two sales. Neither party adequately supported the significant adjustments made, leading the Board to a reasonably concluded value of \$235.00 per square foot based on the unadjusted sales price of the two sales used in common.

The Board concludes that the 2013 actual value of the subject property should be reduced to \$886,890.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$886,890.

The Jefferson 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-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 8th day of September, 2014.

BOARD OF ASSESSMENT APPEALS

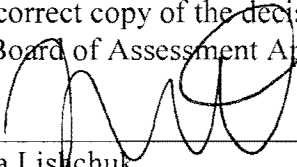
Debra A. Baumbach

Debra A. Baumbach

Sondra W. Mercier

Sondra W. Mercier

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



Milla Lisichuk

