

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>GOLDEN MESA LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63614</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on August 28, 2014, Diane M. DeVries and Gregg Near 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.

The parties agreed to stipulate to Petitioner's Exhibits 1, 2 and 3 as well as to Respondent's Exhibits A and B. The parties also agreed to the expert witness qualifications of Mr. Todd Stevens and Ms. Darla K. Jaramillo.

Subject property is described as follows:

**780 Denver West CO Mills Blvd.  
Lakewood, Colorado 80401  
Jefferson County Schedule Nos. 212368; 212369; 209049**

The subject property is a franchised auto dealership constructed in 2003. The improvements contain a total of 112,089 square feet situated on a 14.45 acre (629,310 square feet) site. The dealership is situated with frontage on Indiana Street and W 7<sup>th</sup> Avenue and Denver West CO Mills Boulevard. This location is just west of the Colorado Mills Mall.

Petitioner presented the following indicators of value:

Market:      \$8,075,340

Cost: \$11,299,403  
Income: Not Applied

Petitioner is requesting an actual value of \$10,000,000 for the subject property for tax year 2013.

Petitioner's first and only witness, Mr. Todd Stevens of Stevens and Associates, presented a "limited summary consulting assignment" report. Mr. Stevens utilized the market approach and found five comparable sales ranging in sale price from \$1,700,000 to \$4,965,100 and in size from 25,141 to 94,678 square feet. After adjustments were made, the sales ranged from \$55.59 to \$77.76 per square foot of building area.

Mr. Stevens adjusted Sale 1 upward since it was older than the subject. Three out of four remaining sales were adjusted downward for newer construction dates. All of the sales, with the exception of Sale 1 from southwest Denver, were considered inferior in location and were smaller in size requiring upward adjustments. Sales 2 through 5 were adjusted downward for bigger lots. The sales were reconciled to a unit value of \$70.00 per square foot and an indicated value of \$8,075,340.

Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$11,299,403.

Four land sales were presented ranging in size from 107,593 to 489,178 square feet and in sale price from \$4.26 to \$10.34 per square foot. After adjustments for location and size the sales indicated unit values from \$4.05 to \$9.31 per square foot. After reconciling to a unit value of \$7.50 Mr. Stevens concluded to a land value of \$4,719,825.

Mr. Stevens utilized the Marshall Valuation Service to determine a replacement cost new of the improvements. The subject was classified as auto showroom, mezzanine office, service garage and mezzanine storage finish. After calculation of the appropriate costs for the various types of improvements, the witness applied a physical depreciation estimate of 20%. Site improvements were depreciated at 80%. The total estimate of replacement cost new less physical depreciation was \$9,066,404. Mr. Stevens then applied a 25% adjustment to that figure to derive a \$2,266,601.07 estimate for economic obsolescence. In conclusion, the witness concluded to total physical depreciated improvement cost of \$9,066,404 from which 25% (\$2,266,601) was subtracted for economic obsolescence. This was added to a land value estimate of \$4,499,600 to derive a total cost of \$11,299,403.

Mr. Stevens considered the cost approach to be the most reliable indicator of value and concluded to a final value estimate of \$10,000,000.

Respondent assigned a value of \$21,900,000 for the subject property for tax year 2013 but is deferring to the value determined by the CBOE of \$14,984,500.

Respondent presented the following indicators of value:

Market: Not Applied  
Cost: \$21,900,000  
Income: Not Applied

Respondent's appraiser, Ms. Darla K. Jaramillo, a Certified General Appraiser, declined to present either a market or income approach deeming the property to be a "special use." Ms. Jaramillo presented a cost approach to derive a market-adjusted cost value for the subject property of \$21,900,000.

Six land sales were considered. The sales ranged in price from \$2,328,200 to \$9,147,600 and in size from 144,284 to 653,400 square feet. After adjustments were made, the sales ranged from \$11.76 to \$18.95 per square foot. A unit value of \$14.00 per square foot of land area was adopted and a land value of \$8,810,340 was concluded. Replacement cost new was developed by use of a state-approved cost estimating service. Ms. Jaramillo separated the property into showroom, showroom-mezzanine, auto service center and auto service center-mezzanine components. All the components were classified as good quality. The base costs were increased by 10% for developer profit and entrepreneurial incentive. Based on a 2004 effective age of construction and by use of the age/life tables provided by the cost service the structural components were considered "93% good." After deduction for physical depreciation to the structures and after applying a 70% physical depreciation estimate to the parking lots and a 47% adjustment to the concrete surfaces, a RCNLD value of \$13,110,731 was determined. Addition of the land value estimate produced a total value by the cost approach of \$21,921,071 rounded to \$21,900,000.

The first question asked by Petitioner was what is the correct value? The County provided a value opinion of \$14,984,500 at the CBOE but upon closer inspection produces a number nearly \$7 million higher. Petitioner contends the County has relied only upon the cost approach; the sales considered are unsatisfactory and the bulk of the improvements have been misclassified. Petitioner has instead provided both a market approach and a cost approach. Petitioner also argues the County, by relying only upon the cost approach, has not properly considered economic or functional obsolescence applicable to this property. Mr. Stevens testified the highest values were obtained by franchised operators and that dealers were reducing the number of dealerships during this period. The sales in this market were all distressed. Petitioner also states that the Marshall Valuation Service does not require the use of an adjustment for developer profit and entrepreneurial incentive.

Respondent contends the auto-dealership market had rebounded in 2011. Many new dealerships are being built and there is no support for Petitioner's claim of 25% economic obsolescence. Respondent considers Petitioner's land value to be unsupported as it relies upon small retail parcels and land Sale 1 was sold after the data collection period. Respondent also claims Petitioner has misclassified the bulk of the improvements at an unreasonably low level of finish. Respondent also questions Mr. Steven's use of straight line depreciation as overstating the actual amount of loss for this factor.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2013.

After careful review of the testimony and exhibits provided, the Board was unable to reconcile Petitioner's significant adjustment for economic obsolescence with the testimony of Respondent citing new construction. The Board agrees with Respondent the subject is a special purpose property and is swayed by Petitioner's argument that Respondent made no effort to apply a market approach. The 14<sup>th</sup> Edition of The Appraisal of Real Estate provides the following:

An opinion of market value requires that there be a market for the property. If there are no buyers for the subject property in its current use, an alternative use must be considered. Using the cost approach to value a special-use property where no market exists will usually overstate the market value of the property unless a deduction is made to reflect the lack of a market. (Emphasis added by the Board).

Respondent made no attempt to consider the market approach and in light of a clear lack of franchised auto dealership sales the Board has less confidence in the value opinion.

The Board finds Petitioner's report to be unsatisfactory as well. Respondent's testimony regarding Petitioner's land sales gives the Board pause as to the reliability of the verification process and the comparability of the properties.

The Board also found Petitioner's cost approach to be sufficiently flawed as to weaken its reliability. Aside from an unsupported and significant adjustment for external obsolescence the approach relied upon an assertion from Petitioner's witness regarding the application of perimeter and height multipliers that was unsupported by any documentation. The classification of the bulk of the property as a service garage; the use of straight line depreciation; insufficient support of a significant adjustment for economic obsolescence all undermined the reliability of the approach.

Based upon the information and testimony presented the Board concludes neither report to be satisfactory and defers to the value opinion established by the CBOE.

### **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).

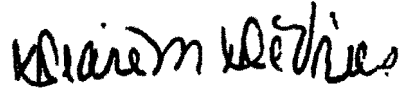
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

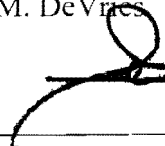
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 23rd day of September, 2014.

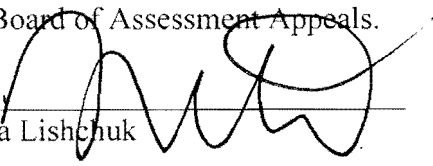
**BOARD OF ASSESSMENT APPEALS**



\_\_\_\_\_  
Diane M. DeVries

  
\_\_\_\_\_  
Gregg Near

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

  
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Milla Lishchuk