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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BRIARWOOD GARDENS PROPERTIES LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 63616</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on September 23, 2014, Sondra Mercier and Gregg Near presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2013 actual value of the subject property.

The parties agreed to stipulate to Petitioner's Exhibits 1 and 2 as well as to Respondent's Exhibit A. The parties also agreed to the expert witness qualifications of Mr. Todd Stevens and Ms. Darla Jaramillo. Petitioner objected to the admission of Respondent's Exhibit B on the grounds it was not submitted timely.

Subject property is described as follows:

**11851 Shaffer Drive
Littleton, Colorado
Jefferson County Schedule No. 431568**

The subject is described as an event and conference center that was constructed in 2004. The building contains 16,736 square feet and is located on a 3.34 acre site. The site backs to the Deer Creek Golf Club which itself backs to Highway C-470 to the west. The improvements consist of a single structure which is divisible by retractable wall panels into up to three separate areas, each with a fireplace. The building contains a kitchen that is not designed to accommodate food preparation as the owner provides this service from a separate building nearby.

Petitioner presented the following indicators of value:

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|---------|--------------|
| Market: | \$1,623,392 |
| Cost: | \$1,757,179 |
| Income: | Not provided |

Petitioner is requesting an actual value of \$1,700,000 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. Mr. Stevens considered the market approach and found one comparable sale. The property sold for \$2,090,000 and contained 12,400 square feet. After adjustments were made, the sale indicated a unit value of \$97.42 per square foot of building area.

Mr. Stevens adjusted the sale downward for personal property; a better location; inferior physical characteristics and more land. The sale was adjusted upward for a seven-year age difference. The sale was reconciled to a unit value of \$97.00 per square foot and an indicated value for the subject of \$1,623,392.

Petitioner's witness presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,757,179.

Three land sales were presented ranging in size from 81,457 to 165,733 square feet and in sale price from \$2.46 to \$5.07 per square foot. After adjustments for location, level of finish and size the sales indicated unit values from \$2.70 to \$4.56 per square foot. After reconciling to a unit value of \$4.00 Mr. Stevens concluded to a land value of \$581,960.

Mr. Stevens referenced the Marshall Valuation Service to determine a replacement cost new of the improvements. The subject was classified as a fraternal building. After calculation of the appropriate cost for the improvements the witness applied a straight line depreciation estimate of 19% citing numerous examples of deferred maintenance. Site improvements were depreciated at 14% and yard improvements from 70% to 80%. The total estimate of replacement cost new less physical depreciation (RCNLD) was \$1,478,551. Citing the subject's poor location and the poor economy Mr. Stevens then applied a 25% adjustment to that figure to derive a \$369,638 estimate for economic obsolescence. In conclusion, the witness added total depreciated improvement costs of \$1,108,914, depreciated site improvements of \$12,842, and yard improvements of \$53,464, to a land value estimate of \$581,960 to derive a total cost as of 2012 of \$1,757,179.

Mr. Stevens considered the market data to be the most reliable indication of value and concluded to a final value estimate of \$1,700,000.

Respondent presented the following indicators of value:

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|---------|--------------|
| Market: | Not provided |
| Cost: | \$3,626,000 |

Income: Not provided

Respondent concluded to an appraised value of \$3,626,000 for the subject property for tax year 2013 but is deferring to the value determined by the CBOE of \$3,174,000.

Respondent's witness Darla Jaramillo, a Certified General Appraiser, considered two transactions of event centers within the extended base period and ultimately determined the market approach to be unreliable.

Ms. Jaramillo used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$3,626,000.

Four land sales were presented ranging in size from 59,634 to 193,919 square feet and in sale price from \$9.16 to \$13.67 per square foot. After adjustments for location, access, visibility and size the sales indicated unit values from \$8.70 to \$11.14 per square foot. After reconciling to a unit value of \$10.00 per square foot Ms. Jaramillo concluded to a land value of \$1,454,900.

Ms. Jaramillo also utilized the Marshall Valuation Service to determine a replacement cost new of the improvements. The subject is considered a special use property as an event and conference center. Ms. Jaramillo classified the improvements as a banquet hall. The base costs were increased by 10% for developer profit and entrepreneurial incentive. Based on a 2004 estimated effective age of construction and by use of the age/life tables provided by the cost service the components were considered "92% good." Yard improvements were depreciated at 80% for asphalt and 70% for concrete. After deduction for physical depreciation a RCNLD value of \$2,171,813 was determined. Addition of the land value estimate produced a total value by the cost approach of \$3,626,713.

Petitioner contends Respondent's expert has misclassified the subject and as a result has overvalued the property. Previous valuations had not used the same classification as was applied in this case. The banquet hall classification for the property unreasonably considers the building to have a full kitchen. The property suffers from significant physical as well as economic obsolescence. Petitioner considers Respondent's land value opinion is inadequate due to inappropriate sales situated in better locations with higher exposure. The excessive land value has contributed to a high valuation. Petitioner has attempted to refinance the property and has been thwarted in his attempts due to the subject's low value.

Respondent indicated all types of fraternal halls and banquet halls were reclassified prior to the valuation period and this has resulted in some higher valuations. Respondent also counters Petitioner's contention of poor condition by indicating that no access was granted for an inspection and Respondent was verbally informed the property was in the same condition as the last time interior access was granted in 2011. Respondent also counters Petitioner's argument regarding full kitchen finish as simply a matter of higher quality personal property which is not at issue here. Respondent questions the similarity of Petitioner's land sales as well because they are largely reflective of REO (real estate owned) and foreclosure transactions.

The Board finds there are three issues at hand. Both parties applied the cost approach after considering and ultimately placing little or no reliance upon the market approach. The first issue in the cost approach is the value of the land and both parties are at odds in this regard. The second question regards the classification of the property as either a fraternal hall or a banquet hall. Finally, the parties applied significantly different adjustments for functional and external obsolescence.

The Board turned to the estimates of land value and finds agreement with both parties; that is—Petitioner’s sales appear unreasonably low and Respondent’s sales appear unreasonably high. The mid-point of the two indications was \$7.00 per square foot or, \$1,000,000 rounded.

Petitioner’s estimate of total cost new of the improvements classified as a fraternal hall, prior to depreciation, is \$1,933,069. Respondent’s estimate as a banquet hall was \$2,567,678. The mid-point of these estimates is approximately \$2,250,000.

The Board concurs with Petitioner regarding classification but finds Petitioner’s estimate of a 25% loss in value to the improvements due to economic obsolescence to be unsupported based upon the evidence. Applying Respondent’s estimate of physical depreciation to a replacement cost new of \$1,933,069 produces a final value estimate, including land, of \$2,778,423.

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 \$2,778,423.

ORDER:

Respondent is ordered to reduce the 2013 actual value of the subject property to \$2,778,423.

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.

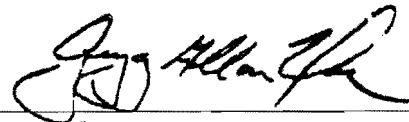
Section 39-8-108(2), C.R.S.

DATED and MAILED this 27th day of October, 2014.

BOARD OF ASSESSMENT APPEALS

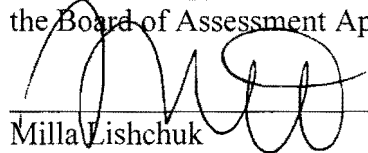


Sondra Mercier



Gregg Near

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


Milla Lishchuk