

<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>PARK MEADOWS 7 LLC,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 63830</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on June 17, 2014, MaryKay Kelley and James R. Meurer presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**7824 Park Meadows Drive, Lone Tree, CO  
Douglas County Account No. R0417124**

The property consists of free standing, one-story multi-tenant retail building containing a net rentable area of 14,341 square feet. This strip retail building was constructed in 2003, and is located in the City of Lone Tree, at the southwest corner of Park Meadows Dr. and Acres Green Dr. Construction of the building is steel and masonry, and typical retail finish in the center consists of suspended ceilings, painted drywall partitions, fluorescent and incandescent lighting, and carpet and tile floors. HVAC is via central package units, the roof is rubber membrane, and the center has a fire sprinkler system. The building was reported to be 81% occupied as of the valuation date, and in overall good condition. Total land area is 1.256 acres.

Petitioner is requesting an actual value of \$1,200,000 for the subject property for tax year 2013. Respondent provided an appraisal reflecting a value of \$2,950,000 for tax year 2013. The Board of Equalization’s (BOE) assigned value for tax year 2013 was \$3,182,645; however, Respondent is recommending a reduction to the appraised value.

Petitioner presented the following indicators of value:

Cost:	Not Developed
Market	\$1,290,690
Income:	\$1,191,896

Petitioner concluded to an indicated value of \$1,200,000 for the subject property.

Petitioner's witness, Mr. Todd Stevens of Stevens and Associates Cost Reduction Specialists, Inc. presented a market (sales comparison) approach that included seven comparables ranging in sales price from \$780,000 to \$7,450,000, and in rentable size from 10,360 square feet to 49,912 square feet. The major adjustments to the sales consisted of location, age, economic characteristics (e.g. leasing level), physical characteristics, excess land, and building square footage. Four of the sales were bank/real estate owned (REO) transactions. After adjustments were made, the sales ranged from \$56.94 to \$146.90 on a per square foot basis. Petitioner placed significant weight on Sale 5 which is located next to the subject and reflected an adjusted value of \$83.68 per square foot. Petitioner reconciled the adjusted sales at \$90.00 per square foot, resulting in an indicated value via the market approach of \$1,290,690.

Petitioner also presented an income approach to derive a value of \$1,191,896 for the subject property. A direct capitalization model was used and consisted of income estimated at \$10.00 per square foot, triple net based on the analysis of eight comparables, including the subject, with triple net rental rates that ranged from \$7.96 to \$15.55 per square foot. A long term vacancy and collection factor was estimated at 15%, and expenses were estimated at 12% of effective gross income or \$14,628. The net operating income of \$107,271 was then capitalized at a 9.00% overall rate which was derived from published surveys, resulting in an indicated value of \$1,191,896 via the income approach. Mr. Stevens placed most weight on the income approach relative to his final opinion of value.

Mr. Stevens argued that the sale and rent comparables used by Respondent were not similar to the subject (e.g. anchored centers), that the adjustments to these comparables lacked support, and that the variables used in Respondent's income approach were suspect. Mr. Stevens further argued that the sale of the building next to the subject at \$89.09 per square foot and the lease executed in the subject building in September of 2009 at \$7.96 per square foot triple net should weigh heavily in the final conclusion of value.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market	\$3,155,000
Income:	\$2,890,000

Respondent concluded to an indicated value of \$2,950,000 as of June 30, 2012 for the subject property.

Respondent's witness, Mr. Michael J. Fronczak, MAI, a Certified General Appraiser with Douglas County Assessor's Office, presented a market approach that included four comparable sales ranging in sales price from \$1,250,000 to \$11,400,000, and in rentable size from 6,540 square feet to 34,749 square feet. The major adjustments to the comparable sales consisted of location, square footage, condition/age, and quality. Two of the sales were in anchored centers. After adjustments were made, the sales ranged from \$177.30 to \$328.07 on a per square foot basis. Petitioner placed equal weight on all of the comparables. Mr. Fronczak reconciled the adjusted sales at \$220.00 per square foot, resulting in an indicated value of \$3,155,000, rounded.

Respondent also presented an income approach. A direct capitalization model was used and consisted of income estimated at \$20.00 per square foot, triple net, based on the analysis of four comparables with triple net rental rates that ranged from \$16.00 to \$24.50 per square foot. A rent roll for the subject was also reviewed reflecting rents ranging from \$±10.00 to \$26.60 with an average of \$19.23 per square foot, triple net. A long term vacancy and collection factor was estimated at 10%, and expenses were estimated at 5% of effective gross income or \$12.907. The net operating income of \$245,231 was then capitalized at an 8.50% overall rate which was derived from market extraction and published surveys, resulting in an indicated value of \$2,890,000 via the income approach. Similar to Petitioner's witness, Mr. Fronczak placed most weight on the income approach relative to his final opinion of value.

Both Mr. Fronczak and Mr. Stevens referenced the lease executed at the subject in September of 2009. The testimony indicated that this lease was written on a full service basis. Both witnesses converted this rate to a triple net rate; however, differed, due to projected expenses, as to the net (\$7.96 v. \$10.00) conversion of the rate.

Mr. Fronczak further testified that subject was well-located in a strong submarket, and that the data presented by Petitioner understated rents, overstated vacancy, and artificially depressed the value of the subject. Mr. Fronczak further argued that four of the sales used by Petitioner were REO sales and should not be given significant weight in the analysis and that the sale of the building adjacent to the subject and the 2009 lease in the subject property were not truly indicative of the market.

Similar to the parties, 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.

Given this conclusion, a comparison of the variables used in Petitioner's and Respondent's direct capitalization models is found in the following table:

Variable	Petitioner	Respondent
Rentable Square Feet	14,341	14,341
Rent PSF	\$10.00	\$20.00
PGI	\$143,410	\$286,820
Vacancy/Collection	15.00%	10.00%
Additional Income	\$0	\$0
EGI	\$121,899	\$258,138
Expenses %	12.00%	5.00%
Expenses	\$14,628	\$12,907
NOI	\$107,271	\$245,231
Overall Rate	9.00%	8.50%
Indicated Value	\$1,191,896	\$2,885,072

The sources and support for these variables is found in the parties' exhibits. The most significant difference between the two sets of metrics appears to be the estimate of the market rent (\$10.00 v. \$20.00) for the subject.

After review of the direct capitalization models provided by Petitioner and Respondent, and the income and expense estimates used in those models, the Board concludes that the following variables are most supportable in the conclusion of market value.

Rentable Square Feet	14,341
Rent PSF	\$18.00
PGI	\$258,138
Vacancy/Collection	10.00%
Additional Income	\$0
EGI	\$232,324
Expenses PSF	10.00%
Expenses	\$23,232
NOI	\$209,092
Overall Rate	8.50%
Indicated Value	\$2,459,903
Round	\$2,460,000

Both parties stipulate to the rentable square footage of the building. The rental rate concluded by the Board at \$18.00 is based on the actual operation of the property combined with what the Board considers more supportable data found in Respondent's rental rate survey. The 10% vacancy and collection loss is also based on Respondent's exhibits and testimony, as well as consideration for the location of the subject building; the subject had only one vacancy and a rate of 19%, and Respondent's CoStar research supported this rate. The expenses are estimated at 10% of effective gross income based on data provided by both parties, with most weight on

Respondent's estimate, and the overall rate of 8.50% is based on the more convincing market extraction and participant survey detailed in Respondent's Exhibit A.

The Board also concludes that minimal weight should be placed on the sale of the retail building adjacent to the subject, and the lease executed in the subject building in 2009. The sale was an REO transfer, and the specific details of either of the transactions were not sufficiently provided via exhibits or testimony. The Board concludes that single transactions do not make a market.

Based on the above, the Board concludes that the value of the subject for tax year 2013 is \$2,460,000 which equates to \$171.54 per square foot.

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 \$2,460,000.

### **ORDER:**

Respondent is ordered to reduce the 2013 actual value of the subject property to \$2,460,000.

The Douglas County Assessor is directed to change 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.

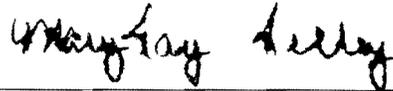
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county,

Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

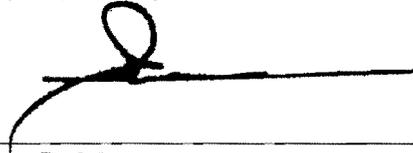
Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 14th day of July, 2014.

**BOARD OF ASSESSMENT APPEALS**

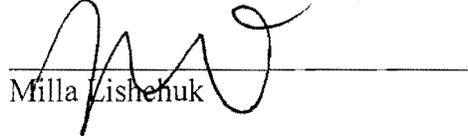


MaryKay Kelley



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

