

BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66044

Petitioner:

IKEA PROPERTY INC.,

v.

Respondent:

ARAPAHOE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on May 31, 2016, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by F. Brittin Clayton, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The subject property is described as follows:

9800 E. Ikea Way, Centennial, CO
Arapahoe County Parcel No. 2075-34-4-36-001

The property consists of a four level, free-standing, single tenant destination retail building constructed for and occupied by IKEA, the Swedish home furnishing retailer. The building was constructed in 2011, and contains a gross building area divided as follows:

| Building Area | Square Footage |
|--|-----------------------|
| Two Level Structured (Garage) Parking | 812,139 |
| Two Level Retail and Public Access Warehouse | 393,907 |
| Total | 1,206,046 |

The single-tenant building is highly visible from Interstate 25. However, access to the property is somewhat circuitous. The interior of the building includes entrances with escalators, showrooms with multiple display areas, a customer loading area, a large cafeteria style

restaurant, a food market area, and a warehouse with ten dock-high loading doors. The quality of construction and the condition of the improvements are both rated as good. Land area is 13.65 acres according to Respondent's exhibits or 13.76 as reported in Petitioner's exhibits, resulting in an approximate 1:51 land to building ratio (exclusive of the garage). The zoning is PUD through the City of Centennial. The building has a geothermal heating and cooling system designed and constructed in collaboration with the National Renewable Energy Laboratory (NREL) which both parties concurred has no contributory value. There is no dispute between Petitioner and Respondent as to the physical characteristics of the facility.

Based on the exhibits, the site was purchased on December 23, 2008 for \$10,250,000, or approximately \$17.24 per square foot. Subsequently, a \$67,000,000 building permit was issued on June 23, 2010 for the construction of the horizontal and vertical improvements.

Petitioner is requesting an actual value of \$37,400,000 for the subject property for tax year 2015. Respondent provided an appraisal reflecting a value of \$65,000,000; which supports Respondent's assigned value of \$46,178,000 for tax year 2015.

Petitioner's first witness, Mr. Brian Slaughter, a commercial real estate broker with Sullivan Hayes Brokerage who was familiar with the property, stated that the subject was a unique building, with few sale and leasing comparables to use for comparative purposes. Mr. Slaughter stated that the entrance to the building, given that it was set back from major arterials, was not easily accessible. He further indicated that, based on his retail experience, single-level buildings as opposed to two-level buildings are preferred by both retail tenants and customers. Mr. Slaughter testified that the biggest challenges to the leasing or sale of the subject would be its extraordinarily large size, its multiple levels, as well as its (structured) garage as opposed to open surface parking. This witness indicated that the typical buyer for the subject would be a large single-user, or an investor that would redevelop the property into some possible alternative use.

Petitioner's second witness, Mr. Brad Weiman, MAI with Integra Realty Resources, elaborated on the positive and negative physical attributes of the subject, and then presented his appraisal report. The appraisal developed all three approaches to value as detailed below.

Within the cost approach, Mr. Weiman reviewed five sales to provide an opinion of the site value. Prior to the adjustment, the sales ranged from \$3.46 to \$8.00 per useable square foot, and in size from 9.32 acres to 46.77 acres. Major adjustments to the sales consisted of market conditions, location, access/exposure, size, and shape/topography. Subsequent to the referenced adjustments, the sales ranged from \$5.37 to \$9.66 per useable square foot. Based on the analysis, Mr. Weiman concluded to a value of \$10.00 per square foot or \$5,990,000 for the subject parcel. As noted, the parcel was purchased in 2008 for \$10,250,000 or \$17.10 per square foot, which was considered in the opinion of land value by concluding slightly above the upper end of the range of adjusted values.

Using costs from the Marshall Valuation Service, Mr. Weiman estimated replacement costs new for the three physical components (distribution warehouse, department store, and parking structure) of the building. After adding indirect costs, entrepreneurial profit, and site

improvements, Mr. Weiman concluded a total replacement cost new of \$91,090,711. After deducting physical depreciation of \$6,256,877 and functional obsolescence of \$54,291,426, the witness estimated depreciated replacement cost new at \$30,542,407. Adding this to the estimated land value of \$5,990,000, Mr. Weiman concluded to a value via the cost approach of \$36,500,000, rounded. A straight line calculation was used by the witness to estimate incurable physical depreciation. Functional obsolescence for the superadequacy of the structured parking was estimated based on the cost of an equivalent surface parking lot, and the additional functional obsolescence for the size of the building was estimated by using regression analysis considering a comparison of other mega-box discount warehouse stores that sold nationally during the reassessment period.

Mr. Weiman also developed a market (sales comparison) approach that included comparable sales for both the warehouse and the showroom space. Regarding the warehouse space, Mr. Weiman referenced four comparable sales and listings ranging in sales price from \$39.37 to \$59.89 per square foot and in size from 114,480 square feet to 338,951 square feet. Adjustments to the comparables consisted of conditions of sale (listing status), market conditions (time), location, access/exposure, square footage, building quality, age/condition, and office finish. After adjustments were made, the warehouse comparables ranged from \$52.20 to \$65.71 on a per square foot basis. With emphasis on all of the comparables, Mr. Weiman concluded to \$8,800,000, rounded, or approximately \$60.00 per square foot for the warehouse space.

Regarding the showroom space, Mr. Weiman referenced seven comparable sales ranging in sales price from \$28.37 to \$135.81 per square foot and in size from 75,420 square feet to 201,322 square feet. Adjustments to the comparables consisted of market conditions (time), location, access/exposure, square footage, economic characteristics, and retail finish. After adjustments were made, the showroom comparables ranged from \$24.61 to \$136.03 on a per square foot basis. With emphasis on Comparable Nos. 1, 4, 5, and 7, Mr. Weiman concluded to \$28,100,000, rounded, or approximately \$115.00 per square foot for the showroom space.

Combining the concluded rounded values from the warehouse space of \$8,800,000 and the showroom space of \$28,100,000, Mr. Weiman concluded to a final value indication via the market approach of \$36,900,000.

Mr. Weiman also presented an income approach to derive a value indication of \$37,900,000. A direct capitalization model was used and consisted of warehouse rental income estimated at \$5.00 per square foot triple net, and showroom rental income estimated at \$9.00 per square foot triple net. These estimated rental rates were based on the review of eleven comparables, and resulted in potential gross income of \$2,937,045. Long term vacancy and collection was estimated at 5% of effective gross income based on published sources, and triple net expenses were estimated at 5% of effective gross income, or \$139,510. The net operating income of \$2,650,683 was then capitalized at a 7.00% overall rate which was derived from published sources and rate comparables, resulting in the indicated value of \$37,900,000, rounded.

According to the appraisal, the income approach conclusion of \$37,900,000 and the sales comparison approach conclusion of \$36,900,000 were given equal weight in Mr. Weiman's final opinion of reconciled value of \$37,400,000 for the subject property.

During testimony, Petitioner argued that Respondent's value conclusion constituted "value in use" rather than the "market value" as dictated by statute. Petitioner argued that the subject property is atypical of the market, is a superadequacy relative to its physical characteristics, and, although has good visibility, has circuitous access. It was further argued that a two-story retail design is not functional and not readily accepted in the market. Also, the witness argued that the structured parking was functionally inadequate, and it did not contribute value to the building.

Respondent's witness, Mr. Ronald J. Gazvoda, MAI with the Arapahoe County Assessor's Office, also provided an appraisal of the subject property which included the development of the cost and sales comparison approaches. Within the cost approach, Mr. Gazvoda reviewed five land sales to provide an opinion of value for the 13.65 acre site. Prior to adjustment, the sales ranged from \$16.32 to \$37.12 per square foot, and in size from 263,876 to 786,493 square feet. Major adjustments to the sales consisted of date of sale, location, square footage, and topography. Subsequent to the referenced adjustments, the sales ranged from \$17.91 to \$18.95 per square foot with an average of \$18.50 per square foot. Based on the analysis, Mr. Gazvoda concluded to a value of \$18.50 per square foot or \$11,000,000, rounded, for the subject parcel. As noted above, the parcel was purchased in 2008 for \$10,250,000, or \$17.10 per square foot.

Using costs from the Marshall Valuation Service, the building permit for the subject in 2010 for \$67,000,000 trended to the date of value, as well as published cost data for other IKEA stores, Mr. Gazvoda estimated replacement costs new for each component (warehouse, showroom, and garage) of the building at \$93,905,184. After deducting physical depreciation of \$1,878,104, functional obsolescence for the horizontal and vertical improvements for the building of \$28,836,943, the witness estimated depreciated replacement cost new at \$63,190,137, or \$52.39 per square foot. Adding this to the estimated land value of \$11,000,000, Mr. Gazvoda concluded to a value via the cost approach of \$74,190,000, rounded, or \$61.52 per square foot. A modified age-life calculation from the Marshall Valuation Service was used by the witness to estimate incurable physical depreciation, and the estimate of the functional obsolescence (building square footage and parking garage) for the subject was based on an analysis of size differentials for competing properties, as well as sales and costs of parking garages located throughout the country.

In addition to the cost approach, Mr. Gazvoda developed a market approach that included five "big box" retail stores with dates of sale ranging from November of 2010 to July of 2014. Prior to the adjustment, the sales ranged from \$73.80 to \$136.38 per square foot, and in size from 99,600 to 202,847 square feet. Two of the sales were located in the Denver Metropolitan Area, two were located in Colorado Springs, and one was located in Pueblo. Major adjustments to the sales consisted of date of sale, location, square footage, age, and exposure. Subsequent to the referenced adjustments, the sales ranged from \$115.92 to \$122.23 per square foot. Mr. Gazvoda concluded to a value of \$120.00 per square foot and applied this value to the subject's rentable

area (i.e. exclusive of the garage) concluding to \$47,268,840 for the retail improvements. Mr. Gazvoda emphasized that there was a paucity of sales to compare to the subject.

Respondent’s witness also provided an opinion of the contributory value of the structured parking garage employing eight parking garage sales located throughout the country. Sales prices per square foot for garages ranged from \$8.58 to \$31.25 for these comparables, and after review of the sales, Mr. Gazvoda concluded to a unit value of \$20.00 per square foot applied to the garage area of 812,139 square feet resulting in a contributory value for the structured parking of \$16,242,780. Combining the two indicated values referenced above, Mr. Gazvoda concluded to a rounded value of \$63,510,000 via the market approach.

Respondent reviewed and considered, but did not develop, an income approach for valuing the subject property. According to the exhibits, most weight was placed on the market approach with support from the cost approach relative to Respondent’s final opinion of value.

A summary of the values referenced in the above paragraphs is found in the following table.

| | Petitioner | Respondent |
|------------------------|---------------------|---------------------|
| Cost Approach | | |
| RCN | \$91,090,711 | \$93,905,184 |
| Physical Depreciation | \$6,256,877 | -\$1,878,104 |
| Functional Ob.-Garage | -\$39,843,053 | -\$24,675,060 |
| Functional Ob. Size | -\$14,448,373 | -\$4,161,877 |
| Depreciated RCN | \$30,542,407 | \$63,190,000 |
| Land Value | \$5,990,000 | \$11,000,000 |
| Indicated Value | \$36,500,000 | \$74,200,000 |
| Market Approach | | |
| Showroom \$/SF | \$115.00 | combined at |
| Warehouse \$/SF | \$60.00 | \$120.00 |
| Garage \$/SF | \$0.00 | \$20.00 |
| Indicated Value | \$36,900,000 | \$63,510,000 |
| Income Approach | | |
| Showroom \$/SF | \$9.00 | Not Developed |
| Warehouse \$/SF | \$5.00 | Not Developed |
| NOI | \$2,650,683 | Not Developed |
| Capitalization Rate | 7.00% | Not Developed |

Petitioner argued that its concluded value reflected a “market value” on the open market, rather than the “value in use” claimed by Respondent. Respondent concurred that the subject was a special purpose facility and emphasized that there were no truly comparable sales or rents to use for comparative purposes. Respondent argued that the subject’s highest and best use is for destination retail, and that the garage was functional, and did contribute to overall value. Further, Respondent testified that the emphasis on the blighted, deed restricted, and stigmatized comparables used by Petitioner in its analysis resulted in a deflated value. Respondent further indicated that the value of the land provided by Petitioner was low based on the analysis of inferior comparables, that Petitioner’s straight line depreciation was inconsistent, and that the calculations of functional obsolescence for both the square footage of the building and the parking garage were misleading.

The major points of disagreement between Petitioner and Respondent were differences in application and interpretation of the valuation premise of “market value” versus “value in use”; the variables used in the approaches to value including the land value, replacement cost, depreciation and obsolescence in the cost approach; the comparables and adjustments to those comparables used in the market approach; the separation of space for valuation purposes (i.e. showroom, warehouse, etc.); the lack of an income approach by Respondent, and the contributory value of the structured parking.

Based on a review of the testimony and exhibits, the Board concludes the following:

1. In determining market value, the Board is guided by the Colorado Supreme Court’s decision in *Bd. of Assessment App. v. Arlberg Club*, 762 P.2d 146 (Colo. 1988). In the *Arlberg* decision, the Colorado Supreme Court thoroughly discussed the concept of market value:

Market value is what a willing buyer would pay a willing seller under normal economic conditions.

Reasonable future use is relevant to market value. In the market, the current value of a property is not based on historical prices or cost of creation; it is based on what market participants perceive to be the future benefits of acquisition.

A property’s “highest and best use,” which is “[t]he use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, that results in the highest land value,” is a “crucial determinant of value in the market.”

Speculative future uses cannot be considered in determining present market value.

See *Bd. of Assessment App. v. Arlberg Club*, 762 P.2d 146, 151-53 (Colo. 1988).

2. The Board was convinced that retail/warehouse use is the highest and best use of the subject property. The Board was not convinced of another reasonable future use for the subject property. The Board was also not persuaded that the existing retail/warehouse use should be ignored in favor of a speculative future use in the determination of market value. The property was 100% occupied by Petitioner as of the valuation date, and the Board finds it reasonable to believe that a retail/warehouse use will continue into the future.
3. Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Colorado case law requires that “[Petitioner] must prove that the assessor’s valuation is incorrect by a preponderance of the evidence. . .” *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concludes that Respondent’s assigned value

of \$46,178,000 for the subject property for tax year 2015 is supportable.

4. The Board was convinced by Respondent's sales comparison approach. Respondent's sales comparison approach indicated a value of \$120.00 per square foot for the subject property, prior to considering any possible contributory value of the structured parking garage. This value is sufficient to sustain the \$46,178,000 assigned value for the subject property. The Board notes that most of the comparable properties used by the parties include warehouse space that is integrated into the retail space. The Board was not convinced that the subject property's warehouse space should be valued at a lower value per square foot, as was done in Petitioner's sales comparison approach.
5. The Board was also persuaded by Respondent that the structured parking garage is functional for this type of facility and does have contributory value to the overall property. In arriving to this conclusion for the parking structure, the Board was persuaded by and relied upon Respondent's analysis as found at the beginning of Page 82 of Respondent's Exhibit A. The Board believes that this type of parking structure, which supports a full building load above in addition to the working load of automobiles and includes geothermal heated driveways, allows the very large subject property to function in a manner that provides Petitioner's customers superior access to the showroom/retail and warehouse areas of the subject property than would be the case if only surface parking was provided for the property.
6. The Board was not convinced by the cost approaches completed by the parties, given the subjectivity surrounding the determination of the replacement cost, depreciation, and functional obsolescence for a property of this type.
7. The Board was also not convinced by Petitioner's income or sales comparison approaches. Petitioner's sales comparison approach indicated a value of \$36,900,000 for the subject property. Petitioner's income capitalization approach indicated a value of \$37,900,000 for the subject property. These values did not take into account the contributory value of the subject property's structured parking garage.

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).

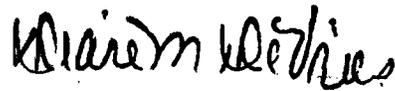
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 30th day of August, 2016.

BOARD OF ASSESSMENT APPEALS

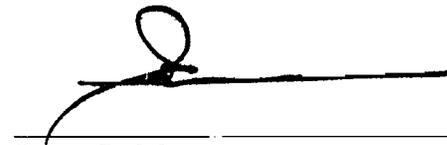


Diane M. DeVries

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



Milla Lishchuk



James R. Meurer