

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 66422**

Petitioner:  
**WFC YCS, LLC,**

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF  
EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on April 6, 2016, Sondra W. Mercier and Debra A. Baumbach presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**6570 S. Yosemite Street  
Greenwood Village, Colorado 80111  
Arapahoe County Schedule No. 2075-21-4-24-001**

The parties stipulated to the expert witness qualifications of Mr. Todd Stevens and Mr. Ronald J. Gazvoda. Petitioner's Exhibits 1 and 2 and Respondent's Exhibits A and C were admitted into evidence.

The subject property is a Class B multi-tenant retail center containing 23,847 square feet of net rentable area. The improvements were originally constructed in 1977 as a Skate City Roller Rink and converted to a multi-tenant retail space in 1995. The property is located on Yosemite Street in Greenwood Village and the site size is 1.79 acres.

Petitioner is requesting an actual value of \$3,800,000 for the subject property for tax year 2015. Respondent assigned a value of \$5,347,000 for the subject property for tax year 2015.

Petitioner presented the following indicators of value:

Market:	\$3,696,285
Cost:	Not applied
Income:	\$3,863,214

Petitioner's witness, Mr. Todd Stevens of Stevens and Associates Cost Reduction Specialists, Inc., described subject property as a multi-tenant, non-anchor retail center. The improvement was constructed in 1977 and converted into a multi-tenant retail space in 1995. The conversion included a new façade to the front of the building. The building is considered to be dated with minimal improvements. Mr. Stevens alleged that the subject's parking ratio of 3.65 is considered below average in comparison to other similar properties in the surrounding area.

Mr. Stevens presented a market approach consisting of five comparable sales ranging in sale price from \$2,620,000 to \$7,800,000, and in size from 19,319 to 22,528 square feet, equaling to \$127.76 to \$369.65 per square foot. Mr. Stevens applied percentage adjustments for location, age, economic characteristics, physical characteristics and excess land. After adjustments were made, the sales ranged from \$102.20 to \$232.88 per square foot. Mr. Stevens concluded to a value of \$155.00 per square foot or \$3,696,285 by the market approach.

Mr. Stevens presented an income approach to derive a value of \$3,863,214 for the subject property. Mr. Stevens considered seven comparable leases, including two leases executed within the subject property. Five of the comparables, including the two leases within the subject, were entered into during the extended base period. All of the lease transactions are located within close proximity to the subject property reflecting similar market perceptions. The leases ranged in rentable area from 900 to 7,477 square feet, and the unadjusted rental rates ranged from \$11.90 to \$19.00 per square foot on a triple net basis.

In determining vacancy rate, landlord expenses and capitalization rate, Mr. Stevens referenced several market survey publications. Mr. Stevens applied a vacancy rate of 10%, landlord expenses of 10% and a capitalization rate of 8%. Mr. Stevens gave most weight to the two leases within the subject property and concluded to a rental rate of \$16.00 for the subject. Mr. Stevens arrived to an indicated value of \$3,863,214 via the income approach.

Petitioner's market and income approaches indicated a range in values between \$3,696,285 and \$3,863,214, equaling to a range between \$155.00 and \$162.00 on a per square foot basis. Mr. Stevens gave most weight to the income approach and concluded to a value of \$3,800,000 for the subject.

Mr. Stevens contends Respondent improperly utilized the sale of the subject property in Respondent's market approach to value the subject. Mr. Stevens argues that the sale involved two related parties and was not an arms-length transaction. According to the witness, Respondent also did not give adequate consideration to the age of the property and to the low parking ratio. In addition, Petitioner's witness alleges that Respondent's income approach did not give appropriate consideration to the two leases within the subject property executed during the base period.

Respondent presented the following indicators of value:

Market:	\$5,720,000
Cost:	Not applied
Income:	\$5,570,000

Respondent's witness, Mr. Ronald J. Gazvoda, MAI, Certified General Appraiser for the Arapahoe County Assessor's Office, presented a market approach consisting of five comparable sales ranging in sale price from \$3,100,000 to \$7,150,000, and in size from 14,494 to 31,899 square feet, representing a range of \$173.17 to \$238.14 per square foot. After adjustments were made, the sales ranged from \$228.59 to \$246.52 per square foot of gross leasable area.

Mr. Gazvoda stated the sales were verified through several sources including conversations with the parties involved in the transactions. Mr. Gazvoda also considered the November 2012 purchase of the subject property and included the sale in his analysis. Respondent's witness made percentage adjustments to the sales for differences in market conditions, location, size, age, FAR, quality and road frontage. Respondent's witness concluded to an average of \$240.00 per square foot or \$5,720,000 (rounded).

Respondent presented an income approach to derive a value of \$5,570,000 for the subject property. Mr. Gazvoda concluded to a net rental rate of \$21.00 per square foot for a typical in-line space and \$14.01 per square foot for the larger space with less finish. The rental rates were derived from reviewing several market surveys and two leases in place at the subject property during the base period. A vacancy rate of 6.5%, expenses for management of 3%, general administrative expenses of 2%, and reserves of 2% were deducted. A capitalization rate of 7% was applied based on alternative investments survey and market abstraction.

Mr. Gazvoda stated he reviewed the subject's rent rolls. The rents ranged from \$14.01 to \$22.81 with a weighted average of \$18.81 per square foot. Advanced Auto executed a new lease in 2012 for \$14.01 per square foot and The Joint executed a new lease in 2013 for \$ 18.00 per square foot. Mr. Gazvoda contended that based on the rents within the subject property and the market rents for similar properties, a rental rate of \$21.00 for the smaller retail space and \$14.01 for the larger retail space is well supported.

Respondent's two approaches indicated a range from \$5,570,000 to \$5,720,000 equal to \$234.00 to \$240.00 on a per square foot basis. Mr. Gazvoda gave most weight to the income approach and concluded to a value of \$5,600,000 for the subject property. Respondent assigned an actual value of \$5,347,000 to the subject property for tax year 2015.

Petitioner presented sufficient 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 concluded Petitioner met that burden. The Board finds that most consideration should be given to the income approach in the valuation. The Board gave secondary weight to the market approach as both parties did not adequately support their adjustments.

The Board gave minimal consideration to the sale of the subject property in the valuation. Respondent failed to present sufficient probative evidence that although the sale involved related parties, it could nevertheless be considered an arms-length transaction and was indicative of market value.

The Board reviewed comparable leases presented by both parties and concluded that the two subject leases reflect market rent for those particular units. The space leased by Advanced Auto was large and had minimal tenant finish. The space leased to The Joint was shown to be inferior for access and visibility.

Although Petitioner’s market rent comparables are located within a mile of the subject property, most transacted prior to the base period or are from inferior centers. Respondent’s comparable market rents 1, 2, 4 and 7 are also located within close proximity to the subject and range from \$11.00 to \$24.00 on net basis. This suggests that the remaining space should be valued at a higher rental rate. Respondent’s market analysis further supports a higher rent for the base period compared to pre-base period leases. A rate of \$21.00 per square foot is applied to the remaining 14,321 square feet of space.

The Board finds Petitioner’s 10% vacancy allowance to be overstated and inadequately supported. The Board considers Petitioner’s expense deduction to be aggressive and not supported by the presented data. The Board finds that the subject property is located in a highly desirable area with adequate traffic and access. The subject’s rents and vacancy were not proven to be effected by the age, condition or low parking ratio.

The Board concludes to the following:

Advanced Auto	\$14.00 x 7,477 sf	Annual Rent	\$104,784
The Joint	\$18.00 x 2,049 sf		\$36,882
Remaining space	\$21.00 x 14,321 sf		<u>\$300,741</u>
		Potential Gross Income	\$442,407
		Vacancy/Loss 6.5%	<u>(\$28,756)</u>
		Effective Gross Income:	\$413,651
		Expenses 7%:	<u>(\$28,956)</u>
		NOI:	\$384,695
		Capitalization Rate	7.5%
		<b>Value Conclusion (Rounded)</b>	<b>\$5,129,300</b>

**ORDER:**

Respondent is ordered to reduce the 2015 actual value of the subject property to \$5,129,300.

The Arapahoe 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 5th day of May, 2016.

**BOARD OF ASSESSMENT APPEALS**

*Sondra W m*

Sondra Mercier

*Debra A Baumbach*

Debra A. Baumbach

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

*Milla Lishchuk*

Milla Lishchuk

