

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

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 66446**

Petitioner:

**D & D COMPANY PROPERTIES LLC,**

v.

Respondent:

**ADAMS COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on March 21, 2016, Gregg Near and Debra A. Baumbach presiding. Petitioner was represented by Thomas E. Downey, Jr., Esq. Respondent was represented by Kerri Booth, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties agreed at the beginning of the hearing to stipulate to the admission of the expert witnesses and to the exhibits.

Subject property is described as follows:

**650 Malley Drive  
Northglenn, CO  
Adams County Parcel No. 0171903409020**

The subject improvement is a 49,266 square foot, free standing retail building built in 1975. The building contains 48,345 square feet of main floor area and there is a 921 square foot mezzanine area currently housing the building security system. The building area was determined by the Assessor's measurements conducted on February 25, 2016 with the concurrence of the building manager. The building was remodeled in 1990 and an additional \$348,000 worth of permitted improvements were completed in 2011.

Petitioner presented the following indicators of value:

Market:      \$1,312,304

Cost: Not presented  
Income: \$1,978,867

Petitioner is requesting an actual value of \$1,325,000 for the subject property for tax year 2015. Respondent assigned a value of \$1,875,000 for the subject property for tax year 2015.

Petitioner's witness, Ms. Deborah A. Tam, with Tam Valuation Service, Inc., presented a consultant's report including a market approach consisting of seven comparable sales ranging in sale price from \$850,000 to \$2,430,000 and in size from 38,626 to 68,000 square feet. After adjustments were made, the sales ranged from \$20.91 to \$36.70 per square foot of building area. Ms. Tam concluded to a unit value of \$28.00 per square foot and applied this to a building area of 46,868 square feet for an adjusted indication of \$1,312,304. Ms. Tam testified she had not measured the building but relied upon information within the County records.

Six of the sales presented by the witness occurred during the base period. The seventh comparable was the September 2010 purchase of the subject property. Ms. Tam made adjustments for location ranging from minus 5% to minus 15% and applied a 10% negative market conditions adjustment to the subject's September 2010 sale. Most weight was given to sale 1 as the most similar in location, to sale 7 (the subject) and, to a lesser extent, sale 5 because it is also proximate to the subject.

Petitioner's witness presented an income approach to derive a value of \$1,978,867 for the subject property. Ms. Tam provided data from a local publication indicating NNN rates in the area at the end of the base period for all types of retail space at \$6.25 per square foot. No data for large single tenant spaces was available according to the witness. Pointing to inline retail rents in the area and a signed lease for adjacent inline space at \$8.00 per square foot, Ms. Tam concluded to a rate of \$5.00 per square foot for the subject.

The witness applied vacancy of 20% and additional expenses of 5% to the collected income to derive net operating income of \$178,098. Applying a capitalization rate of 9%, derived from a local publication, Ms. Tam concluded to an income value of \$1,978,867.

Ms. Tam concluded to a final value of \$1,325,000 giving most weight to the sales comparison approach and dismissing the conclusion of the income approach as lease rates were not available.

Respondent's witness, Edward Hermann, a Certified General Appraiser, presented the following indicators of value:

Market: \$2,217,000  
Cost: \$2,276,000  
Income: \$2,290,000

Mr. Hermann presented a market approach consisting of eight comparable sales ranging in sale price from \$825,000 to \$3,000,000 and in size from 15,296 to 56,040 square feet. After adjustments were made, the sales ranged from \$27.00 to \$94.00 per square foot of improvement area.

Mr. Hermann's eight sales occurred between February 2012 and May 2014. Mr. Hermann also included the September 2010 purchase of the subject property. Respondent's witness made functional adjustments upward representing vacancy and renovations ranging from 0% to 80%. Downward adjustments ranging from 0.13% to 14.33% were made for land to building ratios. Finally, to recognize differences in age and condition, upward adjustments ranging from \$3.26 to \$8.00 per square foot were applied to sales 2, 3 and 6 with negative adjustments ranging from \$0.45 to \$5.65 applied to sales 4, 5, 7 and 8. Most weight was given to sale 4, sale 8 and sale 6. Mr. Hermann concluded to a unit value of \$45.00 per square foot of building area and a value opinion by the sales comparison approach of \$2,217,000 (rounded).

Respondent's witness used a state-approved cost estimating service to develop a market-adjusted cost value for the subject property of \$2,276,000. Although stating within his report that the approach was not applicable for this property, Mr. Hermann developed the approach and testified it was used for support and feasibility. Land value, as determined by the county's "Realware-CAMA" system, was estimated at \$4.18 per square foot but was adjusted upward by the witness based upon consideration and adjustment of six separate land sales to derive a unit value of \$5.76 per square foot and a total land value of \$1,012,000. Total improvement cost new of \$5,429,602 was developed from the same system. Reductions of \$3,377,937.07 for physical depreciation and \$787,292 for functional obsolescence were applied for a total improvement contribution of \$1,264,372. Addition of the land value opinion resulted in the adjusted cost value of \$2,276,000.

Respondent's witness also used the income approach to derive a value of \$2,290,000 for the subject property. Mr. Hermann presented eight comparable properties leased from \$4.49 to \$23.86 per square foot. Adjustment was applied for age and/or effective age leaving an adjusted range from \$4.01 to \$19.14 per square foot. The witness concluded to a NNN rate of \$4.50 per square foot for the subject. Mr. Hermann relied upon secondary sources to derive vacancy, collection loss and the capitalization rate. The witness applied a 6% vacancy rate and collection loss, subtracted management, reserves and other expenses to derive net operating income of \$188,251. After adjusting the capitalization rate for taxes Mr. Hermann developed a value opinion of \$2,290,000.

Respondent's witness considered all three approaches but gave the most weight to the sales comparison approach and concluded to an actual value of \$2,260,000 for the subject property for tax year 2015. Respondent is requesting the Board to uphold the assigned value of \$1,875,000 on the basis of the site specific appraisal.

Petitioner contends that determination of the fee simple value of the subject requires the property to be vacant. Expenditures made after purchase should not be counted toward actual value as these improvements are for the specific purposes of the buyer. Petitioner also contends Respondent's reliance upon the sale/resale of 7400 Highway 2 represents a value in use rather than value in exchange. According to Petitioner, Respondent's use of confidential lease information limits Petitioner's ability to judge the true similarity of the comparable leases.

Respondent contends Petitioner's reliance upon vacant and dark buildings has resulted in an artificially low value opinion. According to Respondent, Petitioner has also not given sufficient consideration to the renovations made to the building after purchase. Respondent argues that Petitioner's significantly higher income approach calls into question the reliability of the comparable sales analysis.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015. Both parties produced reports that illustrated overreliance upon secondary sources and a significant lack of primary research among market participants.

The Board dismissed Petitioner's contention that expenditures made immediately after purchase should be ignored in the determination of actual value finding this to be contrary to traditional appraisal practice. By ignoring expenditures made immediately after the sale, Petitioner has produced an artificially low value opinion by the market approach. This discrepancy is further illustrated by Petitioner's income approach conclusion which significantly varied from the market approach. Although Petitioner ultimately gave minimal weight to the income approach, the Board found it instructive that Petitioner's income conclusion exceeds Respondent's recommended property value.

Based upon testimony pointing to \$348,000 worth of permits pulled for the subject after purchase, the Board concludes the \$1,875,000 value opinion developed by Respondent reasonably reflects the actual value of the subject property considering its September 2010 sale and the contribution to market value due to the expenditures made after purchase.

### **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 13th day of April, 2016.

**BOARD OF ASSESSMENT APPEALS**



Gregg Near



Debra A. Baumbach

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

