

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

**Docket No.: 67547 &
69031**

Petitioner:

UHS OF DENVER INC,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on November 15, 2016, MaryKay Kelley and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey, Jr., Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2015 and 2016 actual value of the subject property.

The parties stipulated to the admittance of Petitioner's Exhibits 1 and 2, as well as Respondent's Exhibit A. Mr. Richard G. Stahl and Ms. Felice Entratter were admitted as expert witnesses.

Subject property is described as follows:

**8565 Poplar Way, Highlands Ranch, Colorado
Douglas County Parcel No. 223105102002**

The subject is a 54,513-square foot psychiatric hospital situated on a 5.58-acre site. To meet the requirements of being structurally fireproof, the building has a concrete slab foundation, structural steel frame, and masonry walls. The 86-bed facility provides 24/7 inpatient mental health services and is staffed by physicians, nurses, social workers and professional counselors. Features include an outdoor activity area, lobby and reception area, offices, kitchen, dining room, activity, consultation, and therapy rooms, staff monitoring stations, occupational therapy room, gymnasium, and mechanical rooms. The building is handicapped accessible, and has a sprinkler system and emergency generator to meet the requirements of having redundant systems for continuous operation. Patient stays range from several days to a month, but do not include long term care.

Petitioner is requesting an actual value of \$7,620,000 for the subject property for tax years 2015 and 2016. Respondent assigned a value of \$9,200,000 for the subject property for tax years 2015 and 2016 but is recommending a reduction to \$9,165,007.

After consideration of all three approaches to value, both parties determined that the cost approach was the most reliable methodology to value the subject for tax purposes. With insufficient sales and income data available, the Board concurs that the cost approach provides the most reliable indication of value for the subject, considered a special purpose property.

Therefore, the issue before the Board is solely the application of the cost approach as provided by the two parties. Both parties relied on cost data derived from Marshall Valuation Service (MVS) (aka Marshall & Swift/Boeckh, LLC), a state approved cost estimating service. The parties agreed that the subject is best described as a psychiatric hospital or behavioral health hospital; however, there is no such category of property in MVS data.

Mr. Richard Stahl, a Colorado Certified General Appraiser and Principal, Asset Valuation Advisors, presented a cost approach on behalf of Petitioner to derive a market-adjusted cost value for the subject property of \$7,620,000. Petitioner relied on the Douglas County Assessor's determination of land value at \$1,871,601 and applied that in the cost approach.

Petitioner contends that the MVS category that best represents the subject is that of Group Care Home, citing the definition from MVS as a building "designed to house the physically or mentally handicapped, substance abusers, battered, homeless or other special needs groups. Typically, these structures are residential or family style." Using a computer-generated program available through Marshall & Swift/Boeckh, LLC, Mr. Stahl's analysis indicated replacement cost new of \$7,202,702. Depreciation of 18% was deducted, resulting in a depreciated cost of \$5,906,216. A factor of 0.973 was then applied to roll-back the cost to the correct date of value, June 30, 2014. Depreciated replacement cost new at \$5,746,748 was added to land value of \$1,871,601 to conclude to a value of \$7,620,000.

Ms. Felice A. Entratter, Colorado Certified General Appraiser with the Douglas County Assessor's Office, analyzed five land sales to determine the value of the subject site. The sales transacted between July 2011 and May 2014, and bracketed the subject for size. After qualitative adjustment, the sales indicate a range of \$5.80 to \$11.51 per square foot. A value of \$9.00 per square foot was concluded, indicating land value of \$2,187,585.

Ms. Entratter used the MVS cost manual to derive a market-adjusted cost value for the subject property of \$9,165,007. Respondent contends that the category that best represents the subject is that of Nursing Homes (Convalescent hospitals), defined by Marshall as a property that "lacks facilities for surgical care and treatment, and included so-called skilled nursing homes, rest homes, sanitariums and like buildings of hospital-type construction. giving full nursing care. Treatment and therapy rooms commensurate with the quality, are included." (MVS, Section 15, page 1). To adequately account for the fire-resistant structural components, Ms. Entratter further categorized the subject as an average, Class A building. Replacement's cost new was calculated as

\$11,819,854. Physical depreciation of 31% was then deducted; functional obsolescence of 10% was deducted, and an allowance for replacement of the roof cover at \$57,000 was deducted to indicate depreciated replacement cost new of \$6,977,422. With the addition of land value of \$2,187,585, total value is concluded as \$9,165,007.

Petitioner contends that the subject is licensed by the State of Colorado as a psychiatric hospital and is not a nursing home. Reasons cited by Petitioner include the lack of 24/7 skilled care, the lack of private dining room, day rooms, laundry, chapel, beauty barber shop, general store, rehabilitation rooms, or hydrotherapy rooms. Also noted was the lack of durable medical equipment such as patient lifts, nurse call system and rooms that are “home-like.”

Respondent contends that the MVS definition of a Nursing Home or Convalescent Hospital (MVS Section 15, Page 26) best describes the construction category of the subject.

Sources cited by the parties include (but are not limited to): Code of Colorado Regulations for the Department of Public Health and Environment, Colorado Revised Statutes Sections 30-28-115, 25-5-10-202, 25-5010-214, 25-5-10-215, 25.5-4-103, Colorado Administrative Code 1011-1; VIII-2, VIII-3, VIII-22, The Joint Commission Quality Check, the Highlands Behavioral Health System website, articles from the Colorado Lawyer, PUD zoning documents for the Town Center (where the subject is located), use and occupancy definitions from the 2012 International Building Code. Neither party adequately tied these regulations to actual determination of cost.

Ultimately, both parties relied on data from MVS. As the sole issue before the Board is the depreciated replacement cost of the subject and the substance of the cost approach, the greatest consideration is given to exhibits and testimony that deal specifically with Marshall Valuation data. This includes copies of pages from MVS (Exhibit A, page 65 and Exhibit B, pages 94-95) along with ISO Construction Code Descriptions (Exhibit B, pages 101-110).

Based on exhibits and testimony presented at the hearing, the Board finds that the MVS definition of a Nursing Home or Convalescent Hospital (MVS Section 15, Page 26) best describes the construction category of the subject, most specifically because of the lack of “surgical care and included ... sanitariums and like buildings of hospital type construction, giving full nursing care.” The Board finds that the subject is a fire-resistant structural that is most accurately defined as an Average, Class A, included under MVS Section 15, Page 26.

Respondent provided a cost approach that relied on comparable sales to value the subject site at \$2,187,585. Adjustments for the HVAC, sprinkler system, current costs, local costs, story height, building perimeter, physical deterioration, functional obsolescence, and roof cover replacement were appropriately applied to indicate a total value of \$9,165,007. Overall, the Board finds Respondent’s cost approach to be the most persuasive evidence presented at the hearing.

The Board was not convinced that the subject met the MVS definition for a Group Care Home, as it is not a “residential or family style” building and is significantly larger (with 86-beds) than even the largest group homes described by testimony and exhibits. Petitioner’s use of a computer-generated report provided inadequate information regarding the structural components,

local cost multiplier, story height, building perimeter, physical deterioration, functional obsolescence, and roof cover replacement to support its concluded value. The Board rejects the notion that a lack of durable medical equipment, considered personal property, is significant to the categorization of the subject. Petitioner's reliance on the Assessor's land value determined as part of the mass appraisal process does not meet the peer standards of a cost approach.

ORDER:

Respondent is ordered to reduce the 2015 and 2016 actual value of the subject property to Respondent's recommended value of \$9,165,007.

The Douglas 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 7th day of December. 2016.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Sondra W Mercier

Sondra W. Mercier

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

Milla Lishchuk

Milla Lishchuk

