

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

Docket No.: 68721

Petitioner:

PARKING PARTNERS CAPITAL FUND, LLC II,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 28, 2017, Debra Baumbach and Amy J. Williams presiding. Petitioner was represented by Sean Baker, Esq. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

The parties stipulated to the admission of Petitioner's Exhibits 1 through 25 and Respondent's Exhibit A.

The subject property is described as follows:

**2304 Curtis Street
Denver, Colorado 80205
Denver County Schedule No. 02342-18-030-000**

The subject property is an 8,801-square foot lot improved with asphalt topping and available for parking 29 vehicles. It is legally described as Lots 15 and 16 and the southwesterly 20 feet of Lot 14, Block 115, Stiles Addition to the City of Denver, City and County of Denver, State of Colorado.

Petitioner is requesting an actual value of \$495,000 for the subject property for tax year 2015. Respondent assigned a value of \$573,100 for the subject property for tax year 2015.

Petitioner called Mr. Michael Wood, MAI, Director, Cushman & Wakefield, as a witness. Mr. Wood, referencing Exhibit 8, an appraisal report he prepared, testified that the subject was a vacant lot, topped with asphalt, utilized for parking and located at the corner of Curtis and Park

Avenue West. Mr. Wood stated the lot was 8,801 square feet in size and, based upon an inspection of October 1, 2015, reported the asphalt to be in fair condition. The subject is located in the Arapahoe Square neighborhood of the Five Points District. Referencing Exhibit 10, Mr. Wood described the Arapahoe Square neighborhood to be northeast of the Denver business district and includes lots of surface parking, low rise commercial buildings, social service sector businesses, homeless shelters and residences. Arapahoe Square is separated from the Denver central business district by 20th Street; the central business district having significantly higher land values due to better access to mass transit, higher density zoning and generally superior neighborhood characteristics.

Mr. Wood testified that the subject is zoned D-AS, Downtown Arapahoe Square. This zone district has a maximum height limit of 200 feet and a maximum floor area ratio (FAR) of 4.0 to 6.0. This zone district requires on-site parking. Mr. Wood further testified that it was not considered financially feasible to construct a building 200 feet in height. Referencing his Highest and Best Use analysis within Exhibit 8, pages 83, 84 and 85, he determined that single family residential townhome development is the subject's maximally productive use, and therefore, Highest and Best Use. He opined that four to six townhomes could feasibly be built and that there is limited, if any, assemblage opportunity for the subject site.

Mr. Wood then reviewed the sales used within the land valuation's Sales Comparison Approach. Six sales were selected, ranging in sale price from \$185,000 to \$1,250,000, or \$43.02 to \$99.34 per square foot. After adjustment, the sales supported a value for the subject within a range between \$53.64 and \$61.21 per square foot and a value of \$56.50 per square foot was selected, resulting in an indication of value for the land via the Sales Comparison Approach of \$495,000, rounded.

Mr. Wood went on to review the Cost Approach. Within the Cost Approach, Mr. Wood determined that the improvements, consisting of pavement, had a depreciated value of \$2,372. When added to the land value via the Sales Comparison Approach, a value of \$497,372 was indicated. However, as Mr. Wood employed rounding to the nearest \$5,000, the contributory value of the improvements was essentially negated by rounding. Therefore, a value for the subject via the Cost Approach was indicated to be \$495,000, rounded, the same value concluded for the land.

Specific to sales analysis, Mr. Wood testified that Sale Nos. 4, 5 and 6 were adjusted downward for sale price pressure associated with assemblage influences. Sale No. 4 was purchased to provide parking for an adjacent parcel and therefore adjusted downward 20 percent. Sale No. 5 was adjusted downward 30 percent for being the final parcel acquired in an assemblage of three parcels. Finally, Sale No. 6 was acquired by a neighboring parcel and also adjusted downward 20 percent.

Mr. Wood concluded to a final value for the subject property of \$495,000.

During cross examination, Mr. Wood clarified that he considered average access to be alley access within the subject neighborhood. Good access would be from the street. Additionally, he explained that his utility adjustment included zoning, mid-block or corner location and access

characteristics. Mr. Wood also described his reasoning for location adjustments and defined the Floor Area Ratio (FAR) as being more restrictive than other zoning restrictions and, therefore, he utilized FAR in his analysis when adjusting the comparables to the subject.

Respondent called Mr. Greg Feese, Real Property Appraisal Specialist, Denver County Assessor's Office, as a witness. Mr. Feese described the subject's general neighborhood and location. He stated the subject was zoned D-AS, Downtown Arapahoe Square, said zone district allowing a 200-foot maximum building height and a Floor Area Ratio (FAR) of 4.0 to 6.0. Mr. Feese stated that he determined the subject's Highest and Best Use to be that of interim surface parking use waiting for redevelopment. He then directed attention to Page 15 of Respondent's Exhibit A, the table of land sales which occurred in Arapahoe Square during the appropriate, statutorily defined re-appraisal time period, arrayed in order of sale date. He also stated that zoning was not just a consideration of the floor area ratio allowed, rather the D-AS zone district was considered a higher density zone district.

Mr. Feese reviewed the sales utilized within his land Sales Comparison Approach. Three sales were utilized, ranging in sale price from \$250,000 to \$835,000, or \$72.81 to \$86.96 per square foot on a time adjusted basis. After adjustment for physical characteristics, the indicated value range changed to \$294,250 to \$910,150, or \$72.81 to \$93.65 per square foot. Based upon the sales and analysis presented, Mr. Feese concluded to a value for the subject land of \$84.00 per square foot, or \$740,300 (including \$1,000 token improvement value), rounded, via the Sales Comparison Approach.

Mr. Feese testified that he selected three sales from the list of possible sales based upon their comparability, selecting those sales that would require the least adjustment. Mr. Feese stated that due to the quality and number of land sales available within the Arapahoe Square neighborhood it was inappropriate and unnecessary to use sales outside Arapahoe Square. Additionally, Mr. Feese testified that he did not apply an adjustment for assemblage impacts on sale price. No Cost Approach was prepared within Respondent's Exhibit A.

Mr. Feese concluded to a final value for the subject property of \$740,300.

During cross examination, Mr. Feese stated that the sales within Arapahoe Square inherently reflect the impacts of the positive and negative neighborhood influences of the Arapahoe Square location. Mr. Feese rejected Petitioner's suggestion that the Assessor's increasing of values for property tax purposes encourages sales and development. He further explained that the assigned value of \$573,100 was based upon mass appraisal methodology and that Respondent's individual property appraisal, Exhibit A, supports a higher value, that of \$740,300.

Respondent assigned an actual value of \$573,100 to the subject property for tax year 2015.

Sufficient probative evidence and testimony was presented to prove that the tax year 2015 valuation of the subject property was incorrect.

After careful consideration of the testimony and exhibits presented in the hearing, the Board determines the major difference between Petitioner's and Respondent's value conclusions rests in the sales selected and adjustments applied to those sales. Petitioner utilized six sales, five of which were within the Arapahoe Square neighborhood. Respondent utilized three sales, all of which were in the Arapahoe Square neighborhood. However, most notably, Petitioner's appraiser adjusted three of his six sales downward 20 and 30 percent due to the positive influence on sale price caused by assemblage conditions. Respondent did not apply an assemblage adjustment. The Board finds Petitioner's Sales Comparison Approach to be the most credible evidence presented. The Board finds Respondent's Sales Comparison Approach to be narrow in sales selected and lacking in analysis of, and adjustment for, assemblage influences on the sales.

ORDER:

The petition is granted. The Denver County Assessor is directed to change the assessment records of the subject property to reflect a value of \$495,000 for tax year 2015.

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 20th day of March, 2017.

BOARD OF ASSESSMENT APPEALS

Debra A Baumbach

Debra Baumbach

Amy J Williams

Amy J. Williams

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

Milla Lishchuk

Milla Lishchuk

