

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket Nos.: 68802 &
70038**

Petitioner:

DOVE VALLEY BUSINESS PARK ASSOCIATES LTD.,

v.

Respondent:

ARAPAHOE COUNTY BOARD OF COMMISSIONERS.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on June 27, 2017, Diane M. DeVries and James R. Meurer presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 2013 and 2014.

The subject property is described as follows:

**13655 Broncos Parkway, Englewood, CO
Arapahoe County Schedule Nos.: 2075-36-1-17-002 (2013) & -23-003 (2014)**

Docket Nos.: 68802 and 70038 were consolidated for purposes of this hearing.

Schedule No. 2075-36-1-17-002 for tax year 2013 was changed to Schedule No. 2075-36-1-23-003 for 2014 due to a minor ROW replatting of the subject land parcel. According to Arapahoe County, the total acreage for 2013 was referenced as 9.490 acres, and total acreage for 2014 was referenced as 9.367 acres.

Petitioner and Respondent stipulated to admission of their witnesses including Ms. Brenda L. Fearn, Mr. Collin Conway, Mr. Jeff Hamilton and Mr. Ronald J. Gazvoda, as well as the admission of Petitioner's Exhibits Nos. 1 through 10, and Respondent's Exhibits A through K.

The subject consists of a single-user commercial campus style property located at 13655 Broncos Parkway in the Dove Valley submarket of unincorporated Arapahoe County. The

property is occupied under a long-term lease, and serves as offices, as well as training facilities, for the Denver Broncos Football Organization. The commercial building is masonry, one and two story, was constructed in 1989, and contains a reception area, administrative offices and a training facility including a cafeteria, medical/physical therapy area, locker room, media room, classrooms, and storage. The building contains 61,973 square feet and is considered to be in overall average condition as of the valuation date, with some deferred maintenance. The storage area has three overhead drive-in doors, as well as one dock high door with leveler. Window placement in the structure along the north and east walls is limited, allowing greater focus to the practice fields located west of the building via an observation deck/viewing area. Zoning is MU (Mixed Use) through Arapahoe County, and all utilities are publically provided. In addition to the commercial building, the subject has extensive site improvements consisting of landscaping, paving, security systems, and heated practice football fields. Note that the subject of this appeal is a part of the larger Dove Valley Denver Broncos campus.

Petitioner is requesting an actual value of \$2,814,200 for the subject property for tax year 2013 and \$2,688,300 for tax year 2014. The Board of County Commissioner's (BOCC) assigned value is \$4,145,773 which is supported by Respondent's appraisal of the property at \$4,800,000 for both years.

Petitioner presented the following indicators of value:

	2013	2014
Cost	\$3,176,172**	
Market	\$2,823,200	
Income	\$2,793,200	
Concluded	\$2,814,200	\$2,688,300***

** after adjustment for roof

*** to calculate the 2014 value, Petitioner prorated land value subsequent to replatting and the structural damage in the atrium

Petitioner's first witness, Ms. Brenda L. Fearn, a property tax consultant with Sterling Property Tax Specialists, Inc. presented her consulting assignment report. The report included all three approaches to value as detailed below. Ms. Fearn considered the property as a general office building with excess land, and valued the subject based on this premise.

In the development of the cost approach, Ms. Fearn reviewed five sales to support an opinion of the site value. Prior to the adjustment, the sales ranged from \$1.31 to \$3.10 per square foot, and in size from 3.02 acres to 10.99 acres. Major adjustments to the sales consisted of exposure and access. Based on the analysis and placing most weight on Comparable Nos. 2, 3, and 4, Ms. Fearn concluded to a value of \$2.25 per square foot or \$930,000 for the subject 9.49 acre parcel.

Using data from the Marshall Valuation Service, Ms. Fearn estimated replacement costs new for the physical components of the building. After deducting her opinion of physical depreciation (this was changed from -\$450,000 to -\$350,000 due to the replacement of the roof)

and functional and economic obsolescence, the witness estimated the depreciated replacement cost new at \$2,146,172. Adding this to the estimated land value of \$930,000 and the depreciated value of the site improvements of \$100,000, Ms. Fearn concluded to a value via the cost approach of \$3,176,172, including the value of the excess land.

Petitioner's witness also developed a market (sales comparison) approach that included seven building comparables ranging in sales price from \$28.72 to \$54.29 per square foot and in size from 38,091 square feet to 59,124 square feet. All of the sales were office buildings located in the southeast suburban submarkets. The major adjustments to the sales consisted of land-to-building ratio, location, exposure, access, year of construction, building square footage, and condition. Petitioner made no adjustment for date of sale. After adjustments were made, the sales ranged from \$28.72 to \$54.29 on a per square foot basis. With emphasis on all of the comparables, and after additional adjustments for structural damage, parking, and excess land, Ms. Fearn concluded to a value of \$2,823,200 for the subject land and improvements via this approach.

Ms. Fearn also presented an income approach to support her concluded value. A direct capitalization model was used, and consisted of gross income estimated for general office use at \$16.00 per square foot full service or \$991,568. This rental rate was concluded based on a review of published sources of rental comparables. A long term vacancy and collection loss was estimated at 16% based on a review of published sources, and expenses were estimated at \$7.00 per square foot exclusive of taxes. The net operating income of \$399,106 was then capitalized at a 13.0% overall rate adjusted for the tax load, which resulted in the indicated value of \$3,070,000 via the direct capitalization model. After additional adjustments for structural damage, parking and excess land, Ms. Fearn concluded to a value of \$2,793,200 for the subject land and improvements via this approach.

Relative to her conclusions of value for tax years 2013 and 2014, Ms. Fearn placed most weight on her market approach arguing that the subject should be characterized and valued as a general office property. Petitioner further argued that the long term lease on the subject property no longer requires use of the subject by the Denver Broncos further supporting the analysis of the subject as general office use.

Petitioner's second witness, Mr. Collin (Chip) Conway, VP of Operations Denver Broncos Football Club, testified regarding the deferred maintenance and structural damage to the subject property. Mr. Conway indicated that the majority of structural damage was caused by expansive soils, and that major deferred maintenance consisted of flooring, mechanical units, lighting, skylights, ceiling tiles, HVAC problems and power issues. Mr. Conway further testified as to the various remodels and remodeling dates applicable to the subject. Cost estimates addressing structural damage and deferred maintenance for the subject are found in Addendums E, F, and G.

Respondent presented the following indicators of value:

Cost:	\$4,800,000
Market	Considered but not developed

Income:	Considered but not developed
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Respondent's first witness, Mr. Jeff Hamilton, a Certified General Appraiser with the Arapahoe County Assessor's Office discussed the subject property, how multi-tenant properties differed from single-tenant properties, and developed a direct capitalization model for single-tenant use. The direct capitalization served as a test of reasonableness for the cost approach found in Respondent's appraisal, and resulted in a higher value than that found in the appraisal.

Respondent's second witness, Mr. Ronald J. Gazvoda, MAI, a Certified General Appraiser with the Arapahoe County Assessor's Office, considered all three approaches to value the subject. However, he only developed the cost approach indicating that this approach was most applicable to the subject given the physical characteristics of the improvements. Relative to land value, Mr. Gazvoda reviewed five sales to support his opinion of the site value. Prior to the adjustment, the sales ranged from \$1.95 to \$3.10 per square foot, and in size from 1.27 acres to 10.99 acres. Major adjustments to the sales consisted of sale conditions, access, topography, and location. Based on the analysis and placing most weight on Comparable No. 3, Mr. Gazvoda concluded to a value of \$3.00 per square foot or \$1,200,000, rounded, for the subject 9.49 acre parcel for 2013 and 2014.

Using a very detailed analysis addressing each use category within the building derived from data from the state-approved Marshall Valuation Service, Mr. Gazvoda estimated replacement costs new for the physical components of the building of \$9,460,681. After deducting his opinion of physical depreciation of 37.7% of cost new, economic obsolescence of 20% of cost new, and deferred maintenance of \$393,850, the witness estimated the depreciated replacement cost new at \$3,999,181 or \$64.53 per square foot. Adding this to the estimated land value of \$1,200,000 and after a deduction for deferred maintenance (-\$393,850), Mr. Gazvoda concluded to a value via the cost approach of \$4,800,000, rounded.

Mr. Gazvoda argued that given the physical characteristics of the property, the highest and best use of the subject would be continued use as a sports complex, and that his concluded value of \$4,800,000 is best reflected by the development of a cost approach. Mr. Gazvoda also argues that the long-term lease (through January 2030) on the subject by the Denver Broncos is an ongoing lease restriction, that significantly impacts the use of the subject and further supports the valuation of the subject as special-purpose.

The major point of disagreement between the parties was the classification of the subject (i.e. general purpose office v. special-purpose sports complex) and the resulting value. The parties also differed relative to their interpretation of the long-term lease on the subject by the Denver Broncos, and the amount of depreciation and obsolescence that should be charged to the subject improvements.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2013 and 2014.

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 the following:

1. Given the physical characteristics of the subject, the Board concludes that the subject should be valued as a special-purpose property. As indicated in the testimony and exhibits, the variety of unique uses and the layout within the building include a reception area, administrative offices, and a training facility with a cafeteria, medical/physical therapy area, locker room, media room, classrooms, and storage. In addition, the parcel has extensive site improvements consisting of landscaping, paving, security systems, and heated practice football fields. These characteristics clearly support a special-purpose classification of the subject. Further, the Board agrees with Respondent that the highest and best use for the subject would be the continued use as a sports facility.
2. Given that the Board has concluded that the subject should be valued as a special-purpose facility, the development of a detailed cost approach to support market value is considered to be most appropriate. There appears to be no sales or rentals of buildings with similar physical characteristics to compare to the subject resulting in problems in the development of a market or income approach.
3. Relative to the cost approaches developed by the parties, the Board finds that the analysis contained in Respondent's cost approach to be most credible. The level of detail contained in this approach including allocating the uses into office space, classroom space, health club space, medical office space, storage warehouse space and cafeteria space, and developing replacement costs for these uses is concluded to be reliable for this type of property. The estimates of land value, physical depreciation, economic obsolescence, and deferred maintenance also appear supportable.

As noted above, the Board finds Petitioner's cost approach to be less credible than Respondent's approach. There is minimal support in Petitioner's analysis for the conclusion of land value, as well as for the multitude of occupancy classifications in the building, and the square footage allocated for each of those classifications. There is minimal, if any, discussion relative to the estimates of physical, depreciation, functional and external obsolescence, and a \$100,000 adjustment for an error in deferred maintenance for the roof was discovered at the hearing.

4. There appears to be some ambiguity relative to the intent and restrictions imposed by the long-term lease of the subject to the Denver Broncos. The Board is not persuaded that the existence of this lease impacts or negates the conclusion stated above concerning the special-use classification of the subject.

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 9th day of August, 2017.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries
James R. Meurer
James R. Meurer

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

M.L.

Milla Lishchuk

