

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MACY'S CALIFORNIA, INC,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 69030</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 30, 2017, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Thomas E. Downey, Jr, Esq. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioner is protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**6801 South University Boulevard, Centennial, Colorado
Arapahoe County Schedule No. 034823182**

The subject is a freestanding, single-tenant department store occupied by the owner. The building was constructed in phases between 1974 and 1993. It is situated on a 10.645-acre site in the Streets of Southglenn retail center. The parties stipulated to the building size as 160,171 square feet of gross leasable area (GLA). As part of the development of the Streets of Southglenn lifestyle center, the subject was “wrapped” by newer multi-tenant retail space on two walls.

Petitioner is requesting an actual value of \$5,400,000 for the subject property for tax year 2016. Respondent assigned a value of \$12,056,000 for the subject property for tax year 2016 but is recommending a reduction to \$11,855,000.

Mr. Francis D. Byrnes, Certified General Appraiser, appeared on behalf of Petitioner having prepared an Appraisal Report on a fee basis. Petitioner presented the following indicators of value:

Market: \$5,400,000
Cost: Not applied
Income: \$5,740,000

Mr. Byrnes presented four comparable land sales ranging in sale price from \$8.00 to \$21.81 per square foot. After adjustments were made, the land sales ranged from \$8.80 to \$27.26 per square foot. Mr. Byrnes concluded to a unit value of \$9.75 per square foot for total land value of \$4,520,000. The concluded land value was based on the hypothetical condition that the subject site was vacant, with no deduction required for removal of the improvements. Mr. Byrnes omitted the Cost Approach from the appraisal, as the determination of depreciation for a building the age of the subject was believed subjective, potentially causing the Cost Approach to be misleading.

Mr. Byrnes presented five comparable building sales ranging in sale price from \$15.52 to \$72.59 per square foot and in size from 31,200 to 193,270 square feet. All five properties were vacant on the date of sale, closing between May 2010 and October 2012. The building sales were from Aurora, Thornton, Denver, and Colorado Springs. Mr. Byrnes first analyzed the sales as if the subject had a new roof. After market condition adjustments were made, the sales ranged from \$24.52 to \$83.33 per square foot. Additional qualitative adjustments were presented. Mr. Byrnes concluded to a value of \$40.00 per square foot, or \$6,400,000 under the assumption that the subject's roof was in good or new condition. He then deducted \$1,000,000 for roof repairs to conclude to a value of \$5,400,000 based on the Market Approach. Information concerning the sale of five Macy's locations outside of Colorado was analyzed as a test of reasonableness. The additional sales indicated an unadjusted range of \$8.82 to \$66.18 per square foot, bracketing the concluded value of the subject on a per square foot basis.

Petitioner's witness presented an income approach to derive a value of \$5,740,000 for the subject property. A rental rate of \$3.50 per square foot net of all expenses was concluded based on an analysis of five lease transactions from the Denver Metro area and five Macy's locations outside Colorado. Mr. Byrnes also considered his concluded rent on a percent of sales basis compared to the five Macy's non-Colorado locations.

Petitioner contends that as of the date of value, the property needed a new roof, had structural issues, and was subject to restrictive zoning and easements that limited alternative uses or redevelopment.

Respondent's witness, Mr. Richard B. Chase from the Arapahoe County Assessor's Office, presented the following indicators of value for the subject **prior to deduction for replacement of the roof:**

Market: \$13,815,000
Cost: Not applied
Income: \$13,480,000

Respondent presented five comparable land sales ranging in sale price from \$15.09 to \$22.93 per square foot. After adjustments were made, the land sales ranged from \$18.22 to \$19.84. Sales 1,

4 and 5 were found most comparable, indicating an average of \$18.97. Mr. Chase concluded to a land value of \$19.00 per square foot or \$8,810,000, rounded. A cost analysis was considered, but was not developed due to the difficulty in measuring accrued depreciation for older buildings with varying levels of additions and remodeling over a period of years.

Respondent presented five comparable improved sales ranging in sale price from \$73.80 to \$136.38 per square foot and in size from 99,600 to 202,847 square feet in gross leasable area (GLA). Mr. Chase also analyzed the sales under the assumption that the subject had a new roof. After adjustments were made, the sales ranged from \$81.34 to \$91.34 per square foot with an average of \$86.27. Identifying Sales 1, 3 and 5 as forming a "tight" range of \$85.41 to \$88.55 per square foot, Mr. Chase concluded to a value of \$86.25 per square foot or \$13,815,000, rounded, under the assumption that the roof had been repaired/replaced.

Respondent used direct capitalization in the income approach to derive a value of \$13,480,000 for the subject property. Rental information from five retail properties was analyzed to determine market rent for the subject. All were significantly smaller than the subject, ranging in size from 42,684 to 62,250 square feet. The five indicated a range of \$8.00 to \$9.00 per square foot net of expenses, with an average of \$8.97. The leases indicated dates of May 2011 through mid-2014 (reported as prior to June 30, 2014). After adjustment, the rental rate range narrowed to \$6.80 to \$8.10 per square foot with a mean of \$7.65. A rental rate of \$7.50 was applied to the subject's GLA of 160,171 square feet to estimate potential gross income of \$1,201,283. Vacancy of 5.0% and collection loss of 1.0% was then deducted in the amount of \$1,129,206. An additional 7.5% or \$84,690 was deducted as non-reimbursed operating expenses. Net operating income was calculated as \$1,044,515, to which a capitalization rate of 7.75% was applied to indicate a value of \$13,480,000, rounded, again under the assumption that the roof had been repaired/replaced.

Giving some consideration to the sales comparison approach, but slightly more weight to the income approach, Mr. Chase concluded to a value of \$13,615,000 (prior to a deduction for roof repair costs). Cost of the roof repair was based on estimated \$1,760,000, including the repair and an additional 10% entrepreneurial incentive. Mr. Chase reconciled to a value of \$11,855,000 for the subject.

Respondent assigned a value of \$12,056,000 for the subject property for tax year 2016 but is recommending a reduction to \$11,855,000.

Both parties concluded that the highest and best use of the subject on the date of value was the existing retail use. The subject is a single-tenant retail building that is currently owner-occupied. Neither party provided convincing data to suggest that the building suffered from functional or external obsolescence that would cause the building to be vacant if it were sold on the open market. Both parties made sizable deductions to account for maintenance related to the roof. As stated in the Assessor's Reference Library, "Unless otherwise directed by law, valuation for ad valorem property taxation should be based on a property's highest and best use." ARL, Vol. 3, Ch. 2, Page 2.3. Because the subject location and building quality is supportive of continued occupancy, the Board was not persuaded that the use of sales of vacant or condemned buildings was appropriate. Evidence and

testimony presented indicated that when Macy's abandons a store, it no longer considers that location to be economically viable to their operation.

Regarding the valuation of the subject site, the Board finds that this analysis only serves to support the highest and best use of the subject as improved, as the value concluded by each party exceeded the value of the site as if vacant. Neither party applied the Cost Approach to value the subject. The Board concurs with the parties, that use of the Cost Approach would not provide a reliable indicator of value for the subject given the building age, multiple renovations over time, and difficulty determining an appropriate deduction for depreciation.

Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to Respondent's recommended value.

The Board was convinced that the roof of the building had reached the end of its economic life. Petitioner made a \$1,000,000 deduction based on information provided by the maintenance personnel. A June 2017 bid indicated a significantly higher cost for roof replacement, but the Board can give no consideration to information prepared well beyond the base period. Respondent made a larger deduction of \$1,760,000 based on an estimated replacement cost of \$10.00 per square foot plus developer's profit of 10% of the estimated cost.

Petitioner reported four areas where the foundation had cracked and moved, with cracks between 10 and 20 feet long and of varying widths. A post base-year (June 2017) bid for curing a portion of this issue cannot be considered by the Board. Petitioner provided insufficient evidence as to the extent of the issue or the cost to cure. No further deduction was supported.

Petitioner provided insufficient support for an adjustment to value relative to either the PUD Zoning or the Easements & Deed Restrictions encumbering the subject site. Although Zoning and Deed Restrictions would limit redevelopment of the subject to only retail use, both parties concluded that the existing retail use remained the highest and best use of the subject as improved. The concluded highest and best use was supported by both parties, as their concluded land value as if vacant was below the concluded value as improved.

In Petitioner's Market Approach, local Sales 1, 2, and 3 were purchased by owner-occupants, indicating adjusted prices ranging from \$52.84 to \$83.33 per square foot. The former Escondido, California Macy's, was purchased by Target for \$66.18 per square foot. Petitioner's remaining sales were vacant at the time of sale and do not accurately reflect the value of an occupied retail building. Petitioner analyzed the subject as if the roof had been replaced, yet a mix of qualitative adjustments were applied to the sales for condition at the time of sale, ultimately concluding that these three sales were superior to the subject despite the assumption that the subject's roof had been replaced. Applying an upward adjustment of \$10.99 per square foot ($\$1,760,000/160,171 = \10.99) to Sales 1, 2, and 3 would produce adjusted values of \$63.83, \$90.84, and \$94.32 per square foot.

Petitioner's Income Approach considered five local comparable rental properties that indicated a range of \$1.89 to \$8.00 per square foot net of expenses. A market rent of \$3.50 was concluded, with support from Macy's leases from the national market. The Board was convinced

that the low rate was not supported, after considering the inclusion of varying amounts of percentage rent, sometimes doubling rental income, on the national Macy's leases.

Respondent relied on five sales of large retail buildings that were tenant occupied at the time of sale. After adjustment, the sales indicated a narrow range of \$81.34 to \$91.34 per square foot. Respondent concluded to a value of \$86.25 per square foot or \$13,815,000 in the Market Approach. Five comparable rental properties indicated a narrow range in rent for the subject, from \$8.00 to \$9.00 per square foot, concluding to a rent of \$7.50 per square foot for the subject. The ranges presented by both parties overlapped, with indications from the upper end of Petitioner's data supportive of Respondent's conclusions. Respondent's selection of a 7.75% capitalization rate produced a value of \$13,480,000 in the Income Approach. After reconciling to a value of \$13,615,000 for the subject assuming replacement of the roof, Respondent deducted \$1,760,000, (76% above the \$1,000,000 suggested by Petitioner) to conclude to a value of \$11,855,000 or approximately \$74.00 per square foot.

The Board concludes that the 2016 actual value of the subject property should be reduced to Respondent's recommended value of \$11,855,000.

ORDER:

Respondent is ordered to reduce the 2016 actual value of the subject property to \$11,855,000.

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 31st day of July, 2017.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

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

