

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

Docket No.: 71514

Petitioner:

ANGEL LOU FILLMORE LLC,

v.

Respondent:

DENVER COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 8, 2019, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Clifton D. Louis, Member, appearing pro se. Respondent was represented by Julie Schneider, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Petitioner's Exhibits 1-3 and Respondent's Exhibit A were admitted as evidence. Mr. Greg Feese, Certified General Appraiser with the Denver Assessor's Office, was admitted as an expert witness.

Subject property is described as follows:

**261 Fillmore Street, Denver
Denver County Schedule No. 05122-20-018-000**

The subject is a three-level, 3,402-gross square foot. single-tenant commercial building situated on a 4,688-square foot site. The building was constructed in 1955. The property is located in the Cherry Creek North Shopping District and zoned C-CCN-5.

Petitioner is requesting an actual value of \$1,084,300 for the subject property for tax year 2017. Respondent assigned a value of \$1,641,800 for the subject property for tax year 2017.

Mr. Louis testified that the subject is leased to a related entity, which has occupied the property since the 1970s. Mr. Louis testified that he has no plans for redevelopment at this time.

Petitioner presented an income approach to derive a value of \$1,084,300 for the subject property, after consideration of the actual lease as well as market rent.

Respondent's witness, Mr. Feese presented an appraisal that relied on the sales comparison approach to conclude to a value of \$1,665,200. Mr. Feese testified that there had been substantial redevelopment occurring in the Cherry Creek North area and that current zoning would allow for a substantially larger building on the subject site.

Five sales from the Cherry Creek North Shopping District were evaluated based on both price per square foot of land as well as per square foot of building area. Mr. Feese concluded that the sales were purchased for future development and concluded to a value for the subject of \$355.00 per square foot of land area or \$1,664,200. A contributory value of \$1,000 was given to the building, considered by Mr. Feese to be an interim use.

An income approach previously produced by the Assessor's Office indicated a value of \$1,154,000 for the subject property, providing further support that the current use no longer represents highest and best use.

Unless otherwise directed by law, valuation for ad valorem property taxation should be based on a property's highest and best use. The requirement of valuing property at its highest and best use was affirmed by the Colorado Supreme Court in *Board of Assessment Appeals, et al, v. Colorado Arlberg Club*, 762 P.2d 146 (Colo. 1988).

The Board was convinced that redevelopment of the subject property is a "highest and best use" based on sales and the redevelopment that has occurred on those properties. Petitioner presented insufficient probative evidence and testimony to prove that Respondent's valuation of the subject property based on its highest and best use as a redevelopment is incorrect.

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).

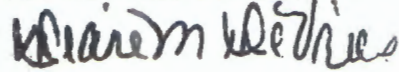
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 23rd day of April, 2019.

BOARD OF ASSESSMENT APPEALS



Diane M. DeVries



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

