

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

1313 Sherman Street, Room 315
Denver, Colorado 80203

**Docket No.: 71990 &
71989**

Petitioner:

DENVER WEST LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on September 27, 2018, Debra A. Baumbach and Sondra W. Mercier presiding. Petitioner was represented by Forest Kitzkis, Associate General Counsel, Tebo Properties, Esq. Respondent was represented by Rebecca Klymkowsky, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Dockets 71989 and 71990 were consolidated.

The Board admitted Respondent's Exhibit A for each of the Dockets; the Board did not admit Respondent's Exhibit B for either of the Dockets. The Board did not admit Petitioner's Exhibits 1 and 2 for either of the Dockets.

Subject property is described as follows:

Docket 71989:

**14103 Denver West Parkway, Golden
Jefferson County Schedule No. 300424481**

Docket 71990:

**14123 Denver West Parkway, Golden
Jefferson County Schedule No. 300424482**

The subject of this appeal is two adjacent office buildings. The property addressed as 14103 Denver West Parkway is a 62,402-square foot office building constructed in 1996. The adjacent

building identified as 14123 Denver West Parkway is 96,452 square feet in size and was built in 1996.

Mr. Stephen Tebo, Member of the LLC, testified on behalf of Petitioner. Mr. Tebo reported that he considered the buildings as Class B properties, of 1990's construction, that lacked amenities found in newer buildings. He testified that there was an increase in vacancy in the building at 14123 Denver West Parkway sometime during 2016, as SafeCo/Liberty Mutual vacated their space. The average rental rate was reported as \$22.00 per square foot full service, with approximately \$10.00 in expenses, resulting in an average net rental rate of \$12.00 per square foot. Mr. Tebo admitted that he was unsure of many of the details regarding the buildings.

Mr. Tebo contends that Respondent incorrectly valued the subject as a Class A property, understated vacancy by applying a rate of 11%, and that the most appropriate capitalization rate should be in a range of 8% to 9%.

Respondent's witness, Mr. Robert Sayer, Certified General Appraiser with the Jefferson County Assessor's Office, presented site specific appraisals for each property. Mr. Sayer relied on the sales and income approaches to support concluded values. The cost approach was considered but not deemed reliable due to building age.

14103 Denver West Parkway

Petitioner is requesting an actual value of \$5,000,000 for the subject property for tax year 2017. Respondent assigned a value of \$8,106,800 for the subject property for tax year 2017.

Respondent presented six comparable sales for comparison to the subject. After qualitative adjustments were made, the sales indicated a range of \$165.00 to \$178.04 per square foot. He concluded to a value of \$175.00 per square foot or \$10,920,000 within the sales comparison approach.

Respondent used the income approach to derive a value of \$10,950,000 for the subject property. Mr. Sayer concluded to a rental rate of \$17.00 per square foot net of expenses; deducted vacancy and collection loss of 11%; and, deducted non-reimbursable owner's expenses and reserves for replacement equal to \$1.21 per square foot. This resulted in net operating income of \$876,350, to which he applied a capitalization rate of 8.0%.

Mr. Sayer concluded to a value of \$10,935,000 for 14103 Denver West Parkway in the appraisal to support an assigned value of \$8,106,800 for tax year 2017.

14123 Denver West Parkway

Petitioner is requesting an actual value of \$9,000,000 for the subject property for tax year 2017. Respondent assigned a value of \$11,933,700 for the subject property for tax year 2017.

Respondent presented six comparable sales for comparison to the subject. After qualitative adjustments were made, the sales indicated a range of \$84.66 to \$151.25 per square foot, giving consideration to above market vacancy in the building. He concluded to a value of \$140.00 per square foot or \$13,500,000 within the sales comparison approach.

Respondent used the income approach to derive a value of \$13,210,000 for the subject property. Mr. Sayer concluded to a rental rate of \$17.00 per square foot net of expenses; deducted vacancy and collection loss of 11%; and, deducted non-reimbursable owner's expenses and reserves for replacement equal to \$1.21 per square foot. This resulted in net operating income of \$1,227,166, to which he applied a capitalization rate of 8.0%. Mr. Sayer then made a deduction of \$2,129,720 to reflect the above market vacancy of the building.

Mr. Sayer concluded to a value of \$13,355,000 for 14123 Denver West Parkway in the appraisal to support the assigned value of \$11,933,700 for tax year 2017.

The Board's Findings

Respondent moved for a directed verdict during the hearing of this matter. Granting a directed verdict in favor of defendant is appropriate when a review of all the evidence establishes that there is no basis upon which a verdict in favor of plaintiff may be supported as a matter of law. *Montes v. Hyland Hill Park*, 849 P.2d 852 (Colo. 1992). In reviewing a motion for directed verdict, the court must consider the evidence in a light most favorable to the party against whom the motion is directed. *Sanchez v. Staats*, 526 P.2d 672 (Colo. 1974). In considering the evidence in a light most favorable to Petitioner in this case, the Board finds that the evidence presented does not warrant the direction of a verdict against Petitioner.

After consideration of all three approaches to value, as required by Colorado Revised Statute, the sales comparison and income approaches were found relevant to the valuation of the subject. The Board found Respondent's testimony and evidence to be the most credible and market based. Respondent's witness correctly completed a site-specific analysis of each subject building. In both approaches, Respondent relied on market data, applied accepted appraisal methodology; and, gave consideration to the above market vacancy at 14123 Denver West Parkway. The appraisals supported the actual value assigned to the subject properties for tax year 2017.

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). Petitioner presented insufficient probative evidence and testimony to prove that the subject properties were incorrectly valued for tax year 2017. The Board does not place a lot of weight on the testimony of Mr. Tebo as it lacked detail concerning the properties and was not supported by relevant market data. The Board found that many of Petitioner's points of contention were adequately considered by Respondent and reflected in the appraisal process. Petitioner failed to present sufficient probative evidence to dispute Respondent's assigned value and, therefore, failed to meet its burden of proof in this appeal.

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 17th day of October, 2018.

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