

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EAGLE RIVER BUSINESS CENTER LTD,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 72086</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 10, 2018, Diane M. DeVries and Amy J. Williams presiding. Petitioner was represented by Owen Oliver, Esq. Respondent was represented by Casie Stokes, Esq. Petitioner is protesting the 2017 actual value of the subject property.

The subject property is described as follows:

**8431 Continental Divide Road, Littleton, Colorado
Jefferson County Schedule No. 300431629**

The subject is a self-storage facility including 13 buildings totaling 63,275 square feet located on a 4.58-acre site. Also included is a 1,400 square foot managers apartment and RV storage.

Petitioner is requesting an actual value of \$4,000,000 for the subject property for tax year 2017. Respondent assigned a value of \$5,846,500 for the subject property for tax year 2017.

Petitioner's witness, David Berger, Real Estate Consultant specializing in property tax valuation with R.H. Jacobson & Company, presented the sales comparison and income approaches to support a value of \$4,000,000. Mr. Berger concluded that the cost approach would not produce a reliable indication of value for the subject because of building age and the difficulty of estimating physical depreciation.

Respondent's witness, Joel Cuthbert, Certified General Real Estate Appraiser with the Jefferson County Assessor's Office, presented the sales comparison, and income approaches to support a value of \$7,500,000. Mr. Cuthbert also did not present a Cost Approach for the same reasons. Additionally, while Mr. Cuthbert's appraisal report supports a value of \$7,500,000, the Jefferson County BOE assigned a value of \$5,846,500.

Petitioner Exhibit 1 and Respondent Exhibits A and B were admitted into evidence.

A taxpayer's burden of proof in a BAA proceeding is well-established: a protesting taxpayer must prove that the assessor's valuation is incorrect by a preponderance of the evidence in a *de novo* BAA proceeding. A taxpayer who meets the burden of demonstrating that an assessment is incorrect need not also show an alternative valuation under the market approach to prevail. *Reiber v. Park Cnty. Bd. Of Equal.*, 14CA6 (Colo. App. 2014).

After consideration of all three approaches to value, the Board finds that the income approach provides the most reliable indication of value for the subject; which is a self-storage facility. Self-storage facilities are typically purchased for their income-producing characteristics, a fact that is supported by the sales offered by both Petitioner and Respondent. In the subject market, sale evidence supported that self-storage facilities were most frequently purchased by investor buyers as opposed to owner-operators. Also, the majority of sales presented within both Petitioner and Respondent's Sales Comparison Approach were self-storage facility portfolio sales, meaning more than one property was included in the sale. Portfolio, or "bulk" sales are generally difficult to confirm and values are allocated to each property based upon the entirety of the multiple property purchase, rather than based upon the characteristics and income of the individual property. Considering this, the Board gives no weight to the Sales Comparison Approach.

Petitioner's witness, Mr. Berger, provided four rent comparables within his Income Approach. Market rents based upon these comparables ranged from \$6.50 to \$11.25 per square foot, with an average rent of \$8.98 per square foot. The subject's actual rent was reported at \$9.03 per square foot. Mr. Berger testified that national chain self-storage facilities reported rental rates of \$12 per square foot. Based upon the publication *Self Storage Expense Handbook* published by MiniCo, Mr. Berger testified that self-storage expense ratios range from 28.8 percent to 42.5 percent of effective gross income, with the lower end of the range excluding property tax as an expense. He also testified that an appropriate capitalization rate would be 8.0 percent.

Based upon the above, Mr. Berger utilized the subject rental rate of \$9.00 per square foot, rounded, multiplied by 63,275 square feet, to calculate potential gross income of \$569,475. No vacancy was deducted, and an expense ratio of 30 percent and a capitalization rate of 10.74 percent (8 percent plus an effective tax rate of 2.74 percent) were utilized to conclude to an initial value of \$3,711,662. He then added a \$4.00 per square foot land value, or \$200,000, to account for the RV storage area of roughly 50,000 square feet. Summarily, Mr. Berger concluded to a value of \$3,911,662 for the subject property via the Income approach.

Respondent's witness, Mr. Cuthbert, calculated potential gross rents based upon information supplied by the owner as well as market rents. Market rental rates, Mr. Cuthbert testified, range between \$0.99 per square foot to \$1.50 per square foot, with the subject's asking rental rates being \$0.99 per square foot. Based upon net rentable square feet of 57,365 and the subject's asking rental rate of \$0.99 per square foot, potential gross income from the self-storage units was calculated to be \$682,140. Mr. Cuthbert then added \$44,314 potential gross RV storage income, for a total potential gross income for the subject of \$726,454. A vacancy and collection loss of 10 percent, an expense ratio of 35 percent and a capitalization rate of 6 percent were considered applicable. Summarily, Mr. Cuthbert concluded to a value of \$7,080,000, rounded, for the subject property via the Income Approach.

The Board finds the actual income and expense information supplied by Respondent to be most persuasive. The subject, while an independent self-storage facility, is professionally managed, utilizing both on-site and off-site management typical in the market place. The income and expense information supplied was detailed. Mr. Berger's testimony regarding the subject's management and asking rates for individual unit types was credible. Specifically, Mr. Berger testified the unit rental rates listed in Petitioner Exhibit 1, Page A6, were unit asking rates reported in the market but not necessarily achievable by the subject. Use of these rental rates by Respondent to establish an effective gross income for the subject, even after deducting a 10 percent vacancy and collection loss, overstates the subject's NOI. The subject's effective gross income as reported on the 2016 Income and Expense Statement, Exhibit 1, Page A1, is \$614,962.87. This figure includes both self-storage rental income and RV space rental income, and accounts for any vacancy, collection loss or lease incentives.

The Board also finds the subject actual expenses to be most persuasive, specifically an expense ratio for 2016 of 29.2 percent, excluding property taxes (Exhibit 1, Page 32), or 30 percent rounded. This is also supported by the range of expense ratios as reported by Self Storage Expense Handbook published by MiniCo, as well as expense ratios reported by comparables as presented by Respondent, though, reportedly, Respondent was uncertain if property taxes were included or not.

Finally, the Board finds Respondent capitalization rate data to be most persuasive, said capitalization rate being 6.0 percent. Capitalization rate data from Cushman and Wakefield, CBRE and Colliers publications for Class B self-storage facilities were supportive of the rate selected. Additionally, an average capitalization rate for several self-storage facility sales of 5.63 percent offered additional credibility for the selected rate of 6.0 percent.

Summarily, based on the subject's effective gross income of \$615,000, rounded, less an expense ratio of 30 percent, an NOI of \$430,500 is calculated. Applying an 8.75 percent capitalization rate (6.0 percent capitalization rate plus an effective tax rate of 2.75 percent) results in an indication of value of \$4,920,000 via the Income Approach.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2017 valuation of the subject property was incorrect. The Board concludes that the 2017 actual value of the subject property should be reduced to \$4,920,000.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$4,920,000.

The Jefferson 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).

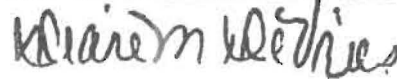
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

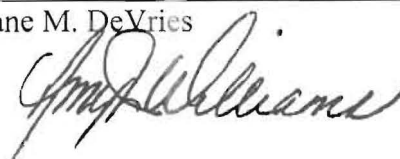
Section 39-8-108(2), C.R.S.

DATED and MAILED this 10th day of August, 2018.

BOARD OF ASSESSMENT APPEALS

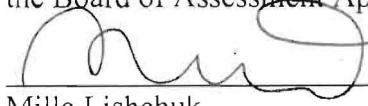


Diane M. DeVries



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

