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| BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 | Docket No.: 72351 |
| <hr/> Petitioner: 4870 NEWPORT LLC, v. Respondent: ADAMS COUNTY BOARD OF EQUALIZATION. | |
| ORDER | |

THIS MATTER was heard by the Board of Assessment Appeals on July 13, 2018, Diane M. DeVries and Gregg Near presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by Meredith P. Van Horn, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Subject property is described as follows:

**4870 Newport Street
 Commerce City, CO
 Adams County Schedule No. 0182317408038**

The subject is a one-story masonry industrial building constructed in 1972. The building contains 10,000 square feet and is occupied by a single tenant. The tenant has occupied the property since February 2008 and extended his occupancy by renewable options through March 2018. The building has three drive in and two dock bays. Interior finish includes office areas, open warehouse and a mezzanine over the office areas. The building is located on a corner and the land area is 33,106 square feet (0.76 acres). The lot has asphalt paving, concrete pads at the docks and a fenced lot allowing car storage on the northerly portion of the site.

Petitioner presented the following indicators of value:

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| Market: | \$570,000 |
| Cost: | Not applied |
| Income: | \$486,450 |

Petitioner is requesting an actual value of \$515,000 for the subject property for tax year 2017. Respondent assigned a value of \$634,800 for the subject property for tax year 2017.

Evidence Presented Before the Board

Petitioner's witness Ms. Darla K. Jaramillo, an agent for Sterling Property Tax Specialists, Inc., presented a sales comparison approach containing three comparable sales ranging in sale price from \$785,000 to \$912,000 and in size from 11,220 to 14,534 square feet. After adjustments were made, the sales ranged in unit value from \$56.89 to \$62.97 per square foot of building area.

Ms. Jaramillo adjusted the comparable sales for location, gross building area, condition, visibility/exposure and access. Sale No. 1 was considered superior to the subject in location and slightly inferior in gross building area. Sale No. 2 was adjusted downward for location, condition and visibility/exposure. Sale No. 3 was considered superior in location and visibility/exposure.

The witness placed greatest weight on Sales 1 and 2 with adjusted indications of \$56.89 to \$57.00 per square foot, respectively. Ms. Jaramillo adopted \$57.00 per square foot and concluded to a value opinion of \$570,000 by this approach.

Petitioner's witness presented an income approach to derive a value of \$486,450 for the subject property. Ms. Jaramillo considered the income the subject had commanded during the renewal option of \$61,248 per year (\$6.12 per square foot) on a gross basis as of the valuation date. In comparison, eleven asking rates were reported from buildings constructed from 1961 to 1985 ranging in size from 7,000 to 14,520 per square foot. The witness then applied a negative 10% adjustment to the asking rates to derive a mean and median indication of \$4.69 to \$4.50 per square foot, respectively. Based on this analysis a market rate of \$4.70 per square foot on a triple net (NNN) basis was adopted. From the potential gross income (PGI) vacancy and collection loss of 10% was applied based upon published sources to determine effective gross income (EGI) of \$42,300. Expenses, estimated at 8%, were applied to reach a net operating income (NOI) of \$38,916. The witness adopted a rate of 8% citing the risk posed by the subject's location in an enterprise zone. Capitalization of the EGI by the OAR produced an indication by the income approach of \$486,450. Ms. Jaramillo placed 60-70 percent weight on the income approach and 30 to 40 percent weight on the sales comparison approach to conclude to a final value estimate of \$515,000.

Respondent presented the following indicators of value:

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| Market: | \$700,000 |
| Cost: | \$595,000 |
| Income: | \$662,000 |

Respondent's witness Gregory L. Korth, a Certified General Appraiser with the Adams County Assessor's Office, presented a sales comparison approach containing five comparable sales ranging in sale price from \$780,000 to \$912,000 and in size from 11,220 to 12,500 square feet. After adjustments were made, the sales ranged in unit value from more than \$62.40 to less than \$76.00 per square foot of building area.

Mr. Korth adjusted the comparable sales on a qualitative basis for dock high doors, age, quality/design, location, clear height and yard area. Sale No. 1 was considered inferior for dock high doors, quality/design and yard area. The sale was superior due to a newer date of construction. Sale No. 2 was inferior in quality/design and ceiling height and superior for yard area. Sale No. 3 was inferior for dock high doors and quality/design. Superior adjustments were applied for location and clear height. Sale No. 4 was inferior in dock high doors and for quality/design. It was rated as superior for yard area. Sale No. 5 was inferior due to age and superior for location and clear height.

The witness determined the most similar buildings were within a range of \$69.96 to \$71.20 per square foot. Mr. Korth adopted an indication of \$70.00 per square foot concluding to a value of \$700,000 by this approach.

Petitioner's witness presented an income approach to derive a value of \$662,000 for the subject property. Mr. Korth presented four comparable properties of buildings constructed from 1968 to 1981 ranging in size from 9,152 to 14,225 per square foot with NNN rental rates from \$4.50 to \$6.50 per square foot. After applying qualitative adjustments to the comparable rentals, the witness determined a range from more than \$4.50 to less than \$6.50 per square foot and adopted a rate of \$5.50/sf. Application of this rate determined a PGI of \$55,000. A vacancy rate of 5% was applied to the building to develop an EGI of \$52,250. Citing two published sources and five sales reported by CoStar indicating a range of OAR's from 5% to 8.15%, the witness adopted a rate of 7.5%. Capitalization of the EGI by the OAR produced an indication by the income approach of \$662,000 (rounded).

Respondent's witness used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$595,000. Land value was determined by consideration of the assigned value by the County compared with sale prices from five comparable sales from the metropolitan Denver market. Mr. Korth determined the County's land value to be appropriate. Application of the Marshall Valuation Service produced a building replacement cost to which the witness added expenses for indirect project costs and developer's overhead and profit to conclude to a replacement cost new (RCN) of \$917,148. Accrued depreciation based on the Marshall tables of \$322,603 was subtracted from the RCN to derive a figure of \$243,367. Land value, estimated at \$129,675, was then added to the adjusted cost to derive a final value opinion of \$595,000 (rounded).

Mr. Korth cited useful indications by all three approaches and concluded to a final value opinion of \$634,800.

The Board's Findings

The burden of proof is on a protesting taxpayer to show that the assessor's valuation is incorrect by a preponderance of the evidence in a de novo BAA proceeding. *Board of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo.2005). After careful consideration of all of the evidence, including testimony presented at the hearing, the Board finds that Petitioner presented sufficient

including testimony presented at the hearing, the Board finds that Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2017 valuation of the subject property was incorrect.

The Board did not find Respondent's sales comparison approach to be credible. Adjustments to the sales were inconsistent; several sales were outside the base period; weighting of property characteristics was not convincing and the Board questions the significant differences in adjusted values between the party's two common comparable sales.

The Board did not find either party's income approach to be convincing. Petitioner produced no first-hand information and relied solely upon published sources and on conversations with market participants. Respondent's approach relied upon published sources with capitalization rates derived from transactions of much larger properties. Respondent's position that land to building ratios are the most significant property feature was contradicted by testimony from Petitioner's witness that Commerce City zoning restricted outside storage only to owners thus rendering any adjustment for this feature within the income approach to be inappropriate.

The Board finds Respondent's appraisal report and testimony to have been insufficient to convince the Board to place significant weight on Respondent's value opinion. The Board determines that Petitioner's evidence is the most persuasive with respect to the subject's 2017 valuation.

The Board concludes that the 2017 actual value of the subject property should be reduced to \$515,000.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$515,000.

The Adams 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).

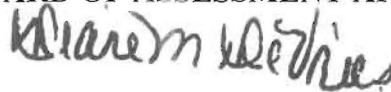
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 29th day of August, 2018.


BOARD OF ASSESSMENT APPEALS



Diane M. DeVries

Gregg Near

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



Milla Lishchuk