

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LOUISVILLE MILL SITE LLC,</p> <p>v.</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.73842</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 23, 2018, MaryKay Kelley and Cherice Kjosness presiding. Petitioner was represented by James C. Tienken, Esq. Respondent was represented by Jasmine Rodenburg, Esq. and Michael Koertje, Esq. Petitioner is protesting the 2017 actual value of the subject property.

Dockets 73842 and 71967 were consolidated for purposes of the hearing.

Subject property is described as follows:

**544 County Road, Louisville
Boulder County Schedule No: R0607874**

The subject is Lot 3 of the Louisville Mill Site Redevelopment Subdivision. It is a 26,128 square foot land parcel containing a one-story commercial building of 3,360 square feet built in 1936. This lot, along with Lot 2 and Outlot A (which are the subject of appeal under Docket No. 71967), was originally purchased as one large parcel by the City of Louisville to prevent the demolition of the old grain elevator located on Lot 2.

The property is unique in that the City desired a historical property designation to protect the structure but wanted the balance of the property to be privately owned and to contribute to the downtown Louisville economy. Petitioner entered into a purchase and sale agreement containing many requirements and involving grant funds from the City's historical foundation for stabilization of the grain elevator. The planned unit development (PUD) and subdivision plat were filed prior to January 1, 2017 to efficiently manage the property under those requirements.

Evidence was presented by both sides regarding the transfers to the City, the two requests for proposal offers, and the final agreement of Petitioner with the City, including a purchase price of \$200,000 and grant funds of \$500,000 back to the buyer.

Petitioner is requesting a total value of \$200,000 for three parcels in the subdivision, the one under this Docket and two under Docket No. 71967. There was no allocation for the subject of this appeal (Lot 3).

Petitioner's witness, Mr. Erik Hartronft, testified that he and his partner, Mr. Randall Caranci, are developing the three parcels as an "economic unit." Lot 3 is used as the "economic engine" for the development. Lot 2 and Outlot A (subject parcels under Docket No. 71967) are actually liabilities for ownership of Lot 3, as they do not create income yet require maintenance. The only way for Petitioner to have an economically viable commercial property is to redevelop this lot to its highest and best use in order to support the other two (Lot 2 and Outlot A). Mr. Hartronft and his partner have made several applications for grant funds but have not been able to meet the matching funds requirements. As of January 1, 2017, the building was not redeveloped, and Petitioner has only been able to attract short time rentals.

When asked by the Board why the property was platted into three parcels if it was to function as one economic unit, Mr. Hartronft testified that Petitioner didn't want the historical restrictions to apply to this property. Petitioner needed to be able to redevelop this Lot in order to make an economically viable property. Outlot A was platted as an unbuildable lot to satisfy the City's requirement that nothing impede the view of the grain elevator.

Petitioner presented an income approach for the entire economic unit (Lot 3, Lot 2, and Outlot A). Petitioner's 2016 pro forma used a triple net rental rate of \$10.18 per square foot based on actual rent obtained from two tenants. The expense rate was \$5.37 per square foot. The costs of the maintenance of the common area and the historical grain elevator were deducted as legitimate expenses to the property. The net operating income was capitalized at 8% and also at 9% as the preferred rates of return. Under the 8% capitalization rate, the indicated value of the economic unit was \$207,754. In cross examination, Mr. Hartronft testified that he did not do any market research to determine any of the data in the pro forma. He used data that his experience indicated was reasonable for this particular property.

Respondent assigned a value of \$563,900 for tax year 2017, which is supported by an appraised value of \$650,000.

Respondent presented the following indicators of value for Lot 1:

Market:	\$722,000
Cost:	\$750,000
Income:	\$575,000

Respondent presented a market approach consisting of three comparable sales ranging in sale price from \$101.00 per square foot to \$354.00 per square foot and in size from 1,634 to 4,464 square

feet. The lot sizes ranged from 7,000 to 33,963 square feet. Mr. Harris made qualitative adjustments and concluded to a value of \$215.00 per square foot or \$722,000.

Respondent presented a cost approach consisting of four comparable land sales ranging in sale price from \$11.00 per square foot to \$48.00 per square foot and in size from 15,000 to 27,752 square feet. Mr. Harris made qualitative adjustments and concluded to a value of \$27.00 per square foot for the site value of Lot 3. He calculated a replacement cost new of \$223,305 and applied physical depreciation of 80% for a replacement cost less depreciation of \$44,661. He concluded to a total value by the cost approach of \$750,000.

Respondent presented an income approach for the subject property based on a market rent of \$14.00 per square foot, a vacancy and collection loss of 5%, and operating expenses of 10%. He capitalized the net operating income at a market derived capitalization rate of 7% for an indicated value of \$575,000.

Respondent assigned an actual value of \$563,900 to Lot 3 for tax year 2017 and is asking the Board to sustain that value.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2017 valuation of the subject property was incorrect.

The Board agrees with Petitioner that the three parcels (Lot 3, Lot 2 and Outlot A) are most appropriately valued as one economic unit. The covenants and restrictions placed on the other two parcels (Lot 2 and Outlot A) make it unlikely that they could be sold separately, but they could have some contributory value to the property as a whole. The Board heard testimony from City of Louisville officials regarding the City's preference that the property contributes to the downtown economy. The Board is satisfied with Mr. Hartronft's explanation as to why the property was platted as three parcels.

The Board agrees with Petitioner that the sales used by Mr. Harris in the market approach and the land sales in the cost approach are not appropriate because they do not take into consideration all the characteristics present in the subject property. The income approach is typically the most relevant and reliable approach to value income producing properties. The market rents and vacancy and collection loss used by Mr. Harris are market derived for similar properties. The operating expenses are also market derived but do not include the costs of maintaining the additional property (the grain elevator on Lot 2). The capitalization rate is supported by market data but does not include any consideration for the additional burden associated with this unique property. However, the pro forma presented by Mr. Hartronft is based on actual rents which are lower than market due to short term rentals, actual expenses, and an unsupported capitalization rate.

The Board concludes that Mr. Harris's net lease pro forma is the best available information on which to base a market value. However, the Board believes that a higher capitalization rate is supported due to the additional burden of the maintenance of the historic structure on Lot 2.

The Board concludes that the 2017 actual value of the subject property should be reduced to \$500,000, which is based on the net operating income from Respondent's Exhibit A and an 8% capitalization rate.

ORDER:

Respondent is ordered to reduce the 2017 actual value of the subject property to \$500,000.

The Boulder 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).

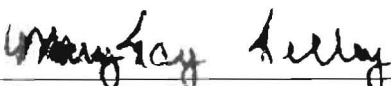
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 27th day of June, 2018.

BOARD OF ASSESSMENT APPEALS



MaryKay Kelley

Cherice Kjosness

Cherice Kjosness

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

Milla Lishchuk

Milla Lishchuk

