

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioners:</p> <p><b>PARKING PARTNERS CAPITAL FUND/MOUNTAIN GOLD LIMITED,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 45988</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on July 16, 2007, Karen E. Hart and Diane M. DeVries presiding. Petitioners were represented by Robert T. Hoban, Esq. Respondent was represented by Andrew J. Horning, Esq. Petitioners are protesting the 2005 actual value of the subject properties.

**PROPERTY DESCRIPTION:**

Subject properties are described as follows:

<b>Address</b>	<b>Denver County Schedule No.</b>	<b>Square Footage</b>
<b>720 Park Avenue</b>	<b>02342-27-021-000</b>	<b>9,381 square feet</b>
<b>2247 California Street</b>	<b>02342-27-013-000</b>	<b>4,690 square feet</b>
<b>2255 California Street</b>	<b>02342-27-022-000</b>	<b>12,508 square feet</b>
<b>2250 Stout Street</b>	<b>02342-27-002-000</b>	<b>3,130 square feet</b>
<b>Total</b>		<b>29,709 square feet</b>

The subject properties consist of four surface parking lots. Petitioners believe that the properties have not been treated fairly and equitably by Respondent. Respondent believes that the properties should be valued at their highest and best use, therefore the income approach is not appropriate in this valuation.

The subject properties are located in B-8 zoning. There are significant differences between B-8 and B-8-A zoning as set forth in Petitioners' Exhibit 4. The subject properties are bordered on two sides by B-8-A. B-8-A does not allow for nuisances such as adult uses and other noxious uses.

According to Petitioners' witness, Mr. Timothy Sabus, B-8 zoning district is a mecca for day laborers, homeless persons, high-crime rates, and drug dealers. Petitioners' Exhibit 7 is a letter from the Denver Police Department stating, "[I]t is not illegal for the homeless and day laborers [sic] to line up along the street as long as they are not being aggressive to the public or violating other city laws. Loitering is unenforceable by officers as it was declared unconstitutional by the courts."

Petitioners' witness indicated that there is a cell phone tower, built in the mid-1990s, adjacent to the subject that stands fifty feet high and is enclosed by a 10-foot wall. The tower blocks the view on all parcels.

Petitioners' Exhibit 1 indicates that adjacent parcels are valued by the Denver County Assessor from \$24.00 to \$27.45 per square foot while the subject properties are valued from \$25.50 to \$30.51 per square foot.

Petitioners' witness, Mr. Steve Letman, presented a value of \$21.00 to \$22.00 per square foot for the subject properties. Mr. Letman presented sales set forth in Petitioners' Exhibit 10. Adjustments were made for time and other items such as light rail station, billboard income, location near LoDo, and buyer motivation. Sales in B-8 ranged from \$22.93 to \$32.24 per square foot and after adjustments from \$21.92 to \$22.93 per square foot. Sales in the B-8-A ranged from \$8.63 to \$35.99 per square foot and after adjustments from \$7.59 to \$26.34 per square foot. Sales 3 and 6 were not considered by the Board because they occurred outside of the base period. Sale 7 was not considered by the Board because of the distance from the subject properties. After removing these sales the comparables indicated an average of \$20.44 per square foot for all sales or \$19.88 per square foot for B-8-A sales

Mr. Letman presented a present worth analysis of \$22.25 per square foot. He indicated he relied on the market approach then reconciled with a blended approach of income and market with a value of less than \$20.00 per square foot.

Petitioners are requesting a 2005 actual value of \$21.00 to \$22.00 per square foot or \$623,889.00 to 653,598.00 for the subject properties.

Respondent presented an indicated value of \$954,500.00 for the subject properties. Respondent presented four comparable sales ranging in sales price from \$265,000.00 to \$660,000.00, in size from 9,416 to 20,466 square feet, and in value per square foot from \$28.14 to \$35.85. No adjustments were made. The sales were reconciled to a value of \$32.00 per square foot. This value was derived using the cost approach developed by a land value direct sales comparison. A qualitative analysis was performed rather than a quantitative analysis.

Respondent's witness, Mr. Richard B. Phinney, did not adjust for B-8 and B-8-A zoning as did Petitioners' witness. Highest and best use for the subject properties is for mixed-use redevelopment. Mr. Phinney believed that all four of the subject properties could be sold as an economic unit regardless of the alley that divides the parcels, however he valued the three properties owned by Parking Partners Capital Fund separately from the single property owned by Mountain Gold Ltd.

Respondent assigned an actual value of \$885,700.00 to the subject properties for tax year 2005. Schedule 2342-27-013-000 was valued at approximately \$25.50 per square foot while the remaining three parcels were valued at \$30.50 per square foot.

Petitioners presented sufficient probative evidence and testimony to prove the subject properties were incorrectly valued for tax year 2005. Petitioners provided the Board with sufficient evidence to show that the subject properties do experience undesirable external forces that are allowed in B-8 zoning. At some point in the future the subject properties may sell for development purposes; the Board believes that possible development of the subject properties is not an appropriate consideration for the tax year in question. The Board believes that Respondent used the high end of the indicated value range while Petitioners used the low end of the range.

The Board does not agree that all of the subject properties could be considered an economic unit because one of the parcels is under different ownership.

Both parties used the Salvation Army sale at 2100 Champa Street. Petitioners believe that sale occurred to serve and secure parking for the existing Salvation Army facility. Respondent believes the sale lacks the visibility and access found in the subject properties. Petitioners gave less weight to the sale due to buyer motivation to act. The Board finds it is appropriate to use the sale with adjustments.

After adjustments including location and utility to all the sales, the Board determines that the actual value for tax year 2005 for the three subject properties owned by Parking Partners Capital Fund is \$27.00 per square foot. The Board concurs with the \$25.50 per square foot assigned to parcel 02342-27-013-000 owned by Mountain Gold Ltd. as the lesser value reflects the smaller size and utility of the property.

The 2005 actual value of the subject properties should be reduced as set forth below:

Schedule No.	Square Footage	Land	Improvements	Total
<b>02342-27-021-000</b>	<b>9,381 square feet</b>	<b>\$253,287.00</b>	<b>\$1,000.00</b>	<b>\$254,287.00</b>
<b>02342-27-013-000</b>	<b>4,690 square feet</b>	<b>\$119,600.00</b>	<b>\$1,000.00</b>	<b>\$120,600.00</b>
<b>02342-27-022-000</b>	<b>12,508 square feet</b>	<b>\$337,716.00</b>	<b>\$1,000.00</b>	<b>\$338,716.00</b>
<b>02342-27-002-000</b>	<b>3,130 square feet</b>	<b>\$ 84,510.00</b>	<b>--</b>	<b>\$ 84,510.00</b>
<b>Total 2005 actual value</b>		<b>\$795,113.00</b>	<b>\$3,000.00</b>	<b>\$798,113.00</b>

**ORDER:**

Respondent is ordered to reduce the 2005 actual value of the subject properties as set forth above, for a total of \$798,113.00.

The Denver County Assessor is directed to change his 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 Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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 CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five 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.

Colo. Rev. Stat. § 39-8-108(2) (2007).

**DATED and MAILED** this 22<sup>nd</sup> day of September 2007.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

This decision was put on the record

SEP 21 2007

*Diane M DeVries*

Diane M. DeVries

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

*Heather Heinlein*

Heather Heinlein

