

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MOHNSEN ACQUISITIONS LLC,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 46289</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 1, 2007, Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Martin E. McKinney, Esq. Petitioner is protesting the 2005 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**10128 Airport Court, Broomfield, Colorado
Jefferson County Schedule Number 206084 (improvements)
Jefferson County Schedule Number 206085 (possessory interest land)**

The subject property consists of a possessory interest in the 41,618 square foot site located at the Jefferson County Airport and two airplane hangars completed in 2003. Both hangars are heated and have sprinkler systems. The larger hangar, measuring 14,400 square feet, has 3,600 square feet of finished office space on two levels, three 56' x 16' bi-fold doors, and four bathrooms with showers. The smaller hanger, measuring 7,200 square feet has 2,400 square feet of finished office space, one 60' x 16' hangar door, and two bathrooms with showers.

Respondent assigned an actual value of \$842,400.00 to the subject property for tax year 2005. Petitioner is requesting an actual value of \$357,788.00.

Exclusive Use

Petitioner contends that only 44.7% of the total 41,618 square feet of land is used exclusively by the Petitioner. The remaining land is used for publicly accessed parking, walkways and gates that are not within the building footprints. Pursuant to the Court’s decision in *Denver jetCenter, Inc. v. Arapahoe County Board of Equalization* (04CA2050), areas located outside of the building footprints are not subject to exclusive use and possession when the general public cannot be excluded from using those areas. Petitioner does not have exclusive use and possession of the total 41,618 square foot area. Therefore, only 21,600 square feet (the building footprints) are subject to a possessory interest.

Value

The parties presented the following indicators of value.

	<u>Petitioner</u>	<u>Respondent</u>
Cost Approach	\$397,797.00	\$1,025,048.00
Income Approach	\$404,513.00	n/a

Land Value

Petitioner valued the land at \$84,470.00 based on the lease rate established for 2004 (\$.2927 per square foot x 41,618 square feet) multiplied by a present worth value of 6.935155. Petitioner’s present worth value is based on 27 years remaining on the 30-year lease at 14% (Jefferson County’s metropolitan rate of 11.5% plus a tax load of 2.43%). .

Respondent valued the land at \$102,820.00 based on 11.5% (4.75% safe rate, 1% risk rate, 2.88% mortgage rate, and 2.87% tax rate) and a present worth value of 8.235522 based on 27 years.

The Board found Respondent’s net present value calculation to be more appropriate for a possessory interest ownership. Petitioner’s discounted vacant land calculation is typically used for fee simple ownership with development potential.

The Board recalculated Respondent’s land value to reflect the 44.7% exclusive-use portion of the property resulting in an indicated value of \$45,961.00.

Cost Approach - Improvements

Petitioner used Marshall & Swift cost figures for average-quality Class S storage hangars, physical depreciation of 13%, and depreciated yard improvements of \$39,490.00. Given that the Jefferson County Assessor’s Office had applied an average adjustment of 52% to six other hangars at the subject airport, Petitioner deducted an additional 52% to conclude to an improvement value of \$313,327.00. Petitioner’s 52% adjustment was not substantiated. The Board was not convinced that

adjustments given for unknown reasons to six out of hundreds of hangars at the airport should be applied to the subject property.

Respondent used Marshall & Swift cost figures for average-quality Class S maintenance hangars and depreciated yard improvements of \$144,250.00 to conclude to an improvement value of \$922,228.00.

Respondent's Marshall & Swift cost figures for maintenance hangars were more convincing than Petitioner's storage hangar costs. The Marshall & Swift description for maintenance hangars (S Class average-quality construction) includes "small office, few partitions, concrete floor," whereas the description for storage hangars includes "small office, concrete floor." The subject hangars have partitioned offices with carpeting, florescent lighting, central heat, and restrooms. In addition, paragraph 1.5 of the subject's lease states that "the Premises shall be used and occupied by Lessee solely for the purpose of hangaring and *maintaining* aircraft owned or leased wholly and exclusively by Lessee" (emphasis added).

Income Approach

Petitioner's income approach was based on the subject's average rent per square foot of \$5.27 (supported by actual rents of two other hangars at the airport, each at \$5.25 per square foot), actual vacancy of 6%, and six months of actual operating expenses stabilized for the year to arrive at an annual net income of \$67,562.00. A capitalization rate of 9.75% (mortgage constant of 4.69%, return on equity of 2.50%, and effective tax rate of 2.43%) was applied to conclude to an indicated value of \$404,500.00. Recalculation based on the 44.7% exclusivity argument for the land value results in an indicated value of \$357,788.00.

The Board placed no weight on the income approach value indication, as it was based on only six months of income and expense information. No comparable expense data was presented and the comparable income presented was insufficient. In addition, the income approach addresses the value of land held in fee simple ownership, which is not comparable to the possessory interest of the subject land.

Based on Respondent's cost approach with the recalculated land value of \$45,961.00, the indicated value of the subject property is \$968,161.00, which is higher than the value assigned to the subject property for tax year 2005.

ORDER:

The appeal is denied.

APPEAL RIGHTS:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 27th day of February 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

FEB 26 2007

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

Penny S. Lowenthal
Penny S. Lowenthal *PL*



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

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 46289

Petitioner:

MOHNSSEN ACQUISITIONS LLC,

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER ON MOTION FOR RECONSIDERATION

The Board of Assessment Appeals received Petitioner's Motion for Reconsideration on February 28, 2007 and Respondent's Objection to the Motion for Reconsideration on March 5, 2007. The Board has carefully reviewed Petitioner's Motion and Respondent's Objection.

The subject property consists of improvements and possessory interest land identified by two separate schedule numbers:

Jefferson County Schedule Number 206084 (improvements)

Jefferson County Schedule Number 206085 (possessory interest land)

Petitioner asserts that each schedule number stands on its own and that each schedule number should be valued separately. As the subject property consists of two different property types, the Board agrees.

ORDER:

Respondent is ordered to reduce the 2005 actual value of the subject property to \$785,561.00 allocated as follows:

Jefferson County Schedule Number 206084 (improvements)	\$739,600.00
Jefferson County Schedule Number 206085 (possessory interest land)	45,961.00

DATED and MAILED this 8th day of March 2007.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

MaryKay Kelley

MaryKay Kelley

This decision was put on the record

MAR 07 2007

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

Penny S Lowenthal
Penny S. Lowenthal

