BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **CROWN DENVER II, LLC,** v. Respondent: **JEFFERSON COUNTY BOARD OF EQUALIZATION.**	**Docket Nos.: 50161 & 51316**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 6, 2009, James R. Meurer, MaryKay Kelley, and Louesa Maricle presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Writer Mott, Esq. Petitioner is protesting the 2007 and 2008 actual value of the subject property.

The Board consolidated Docket Nos. 50161 and 51316.

PROPERTY DESCRIPTION:

Subject property is described as follows:

560 Golden Ridge Road, Golden, Colorado
Jefferson County Schedule No. 434461 or Parcel No. 40-034-09-212

The subject property is a one-story multi-tenant flex office building with a rentable area of 43,200 square feet. The building was completed in 2001 and is situated on a 4.804-acre site. The construction is concrete slab on grade, pre-engineered steel post-and-beam frame with precast concrete exterior panels and glazed panels, and flat roof. The site is landscaped and has lighted asphalt paved parking. On the assessment dates of January 1, 2007 and January 1, 2008, the property had four tenants occupying a total of 35,011 square feet, with 8,189 square feet (19%) vacant. The vacant space is in unfinished, shell condition.

Respondent assigned a value of $4,675,000.00 for tax years 2007 and 2008. Petitioner is requesting a value of $2,600,000.00 for each tax year.

Petitioner presented the following indicators of value:

Cost:	Not used
Market:	$3,024,000.00
Income:	$2,584,268.00

Based on the income approach, Petitioner presented an indicated value of $2,600,000.00 for the subject property.

Petitioner's witness, Mr. Todd J. Stevens, did not present the cost approach to value.

Petitioner's witness presented a market (sales comparison) approach to value including three comparable sales ranging in price from $3,800,000.00 to $7,200,000.00 and in size from 40,723 to 63,364 square feet. On a per square foot basis, the sale prices ranged from $93.31 to $117.65. Adjustments were made to the sales for location, age of the improvements, economic characteristics (described as current economic conditions and vacancy), physical characteristics, and site area. After adjustments, the indicated sale prices ranged from $66.25 to $81.18 per square foot. The value conclusion using the market approach was $70.00 per square foot or $3,024,000.00.

Petitioner presented an income approach with an indication of value of $2,584,268.00 for the subject property. Direct capitalization methodology was used. Data regarding two leases that occurred in the subject during the base period and six additional market rent comparables were presented as support. Two of the leases presented indicated a range in rental rates of $9.00 to $9.50 per square foot on a triple net lease basis. One lease in the subject property during the base period was presented by Petitioner's witness as a triple net lease, though the Board noted that the lease document states it is a gross lease. The witness adjusted the $16.50 per square foot gross rent for that lease downward to an effective rent of $7.10 per square foot. The derivation of the effective rent adjustment used was not provided. The remaining five leases indicated a range in rental rates of $13.00 to $17.00 per square foot on a gross rent basis. Petitioner's witness put emphasis on the triple net lease comparables and concluded to a triple net rental rate of $8.50 per rentable square foot. Additional revenue of $4.75 per square foot was estimated for common area maintenance.

A 15% vacancy and collection loss factor was used. Operating expenses included a 5% management fee, $102,873.00 for common area maintenance excluding property tax, and 10% for operating, maintenance and reserves. The net operating income was capitalized at a rate of 10.75%, which included a base rate of 8.25% plus 2.50% for the effective property tax rate. In addition, a deduction of $40.00 per vacant square foot was made from the capitalized value for the estimated cost of tenant finish.

According to Petitioner's witness, the estimates of income were based on a survey of metropolitan area leases during the base period, including two in the subject property. The vacancy rate used was based on the vacancy in the subject, and rates from Ross Research and CoStar third party market reports. The sources of the expenses used and tenant finish deduction for the vacant space used were not disclosed. The capitalization rate used was based on market sales and third party reports.

Petitioner is requesting a 2007 and 2008 actual value of $2,600,000.00 for the subject property.

Respondent presented the following indicators of value:

Cost:	Not used
Market:	$4,662,000.00
Income:	$4,900,000.00

Respondent's witness, Mr. Jon S. Aasen, an appraiser with the Jefferson County Assessor's office, presented an indicated value of $4,800,000.00 for the subject based primarily on the market approach with secondary consideration given to the income approach.

Respondent's witness did not present the cost approach to value.

Respondent's witness presented a market approach with five comparable sales ranging in price from $1,820,000.00 to $11,600,000.00 and in size from 15,390 to 78,311 square feet. On a per square foot basis, the sale prices ranged from $108.81 to $258.68. Respondent's witness considered qualitative rather than quantitative adjustments for each sale. Therefore, the witness did not conclude to adjusted sale prices for the comparables. Respondent's witness concluded that three of the comparable sales are superior to the subject, one is similar, and one is inferior. Using this approach, Respondent's witness concluded to a market value of $118.00 per rentable square foot, assuming stabilized occupancy at the property. After a deduction of $53.24 per square foot of vacant space in the property to reflect the lease-up costs for the vacant space in the subject, Respondent's witness concluded to a value by the market approach of $4,662,000.00.

An income approach was presented by Respondent's witness with an indication of value of $4,900,000.00 for the subject property. Two direct capitalization scenarios were used for this analysis: 1) the initial method is a stabilized value estimate less lease-up costs, and 2) the secondary method used a modified vacancy figure to reflect the above market vacancy in the property. The market rent was estimated at $10.50 per rentable square foot on a triple net basis for both valuation methods. The vacancy and collection loss was estimated at 5.0% for the initial method and 9.5% for the secondary method based on approximately half of the actual vacancy in the property. Expenses including property tax were estimated at $5.50 per square foot for the initial method and $5.25 per square foot for the second method.

The net operating income for the initial method was capitalized at a rate of 7.90% and reflects the deduction of property tax as part of the operating expense rather than as an added load factor in the overall capitalization rate. In addition, a deduction of $53.24 per vacant square foot was made from the capitalized value in the initial method for the estimated lease-up costs. The net operating income for the second method was capitalized at a rate of 7.5% to reflect a buyer's potential in leasing the vacant space. Because the second method already reflects a higher modified vacancy rate, and lower capitalization rate, a deduction for lease-up costs was not made.

According to Respondent's witness, the estimates of income were based on leases within the subject property during the base period and a confidential rent survey of leases in the submarket as well as the metropolitan area market conducted by the Assessor's office. A stabilized vacancy rate was used for the initial method and the vacancy rate used for the second method was a modified rate between the stabilized vacancy and the subject's actual vacancy. The sources used for the expense estimates included the actual operating history for the subject, third party market reports, and confidential information obtained within the Assessor's office. The tenant finish capital expense estimate was based on market sources, and the overall rates were based on sales within the market and multiple third party investor reports.

Respondent assigned an actual value of $4,675,000.00 to the subject property for tax years 2007 and 2008.

Petitioner's witness contends that Respondent used dissimilar sales for comparison to the subject. The Board disagrees. The Board finds that the sales used by Respondent in the market approach were the most comparable sales presented to the Board and were appropriate.

Petitioner's witness testified that Respondent's income approach did not take into account the market conditions including vacancy within the subject and the market, market rents, and the costs associated with the vacant space within the subject. Petitioner's witness also testified that there were flaws in the methodology Respondent used to analyze the subject property. The Board disagrees. The Board finds that the factors used by Respondent in deriving an indication of value based on the income approach were correct and that methodology used by Respondent was appropriate.

Petitioner did not present sufficient probative evidence and testimony to prove that the tax year 2007 and 2008 valuation of the subject property was incorrect. Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for the tax year 2007 and 2008.

The Board placed most weight on the comparable sales used by Respondent. Adjustments were made for all differences in physical characteristics and factors affecting the subject property were addressed.

ORDER:

The petition is denied.

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-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 Section 24-4-106(11), C.R.S. (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.

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

DATED and MAILED this 29th day of September 2009.

BOARD OF ASSESSMENT APPEALS

James R. Meurer

MaryKay Kelley

Louesa Maricle

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

Heather Flannery

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

50161 & 51316