

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FIRSTBANK HOLDING COMPANY,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 50338</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 14, 2009 Diane M. DeVries and Sondra W. Mercier presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2008 actual value of the subject property. Dockets 50338 and 50339 were consolidated for purposes of the hearing only.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**9217 East Lincoln Avenue, Lone Tree, Colorado
(Douglas County Schedule No. R0407103)**

The subject is a 4,186 square foot bank building located on a 1.71-acre site. The building was completed in 1999. The building square footage is based on Petitioner’s witness, Ms. Carolyn Carter’s, measurement of the building and is believed to be more accurate than the square footage shown by Respondent, which included rounding to the nearest ½ foot.

Petitioner presented the following indicators of value:

Market:	Not applied
Cost:	\$1,092,871.00
Income:	\$920,400.00

Due to a lack of sales, Petitioner did not present a market approach.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,092,871.00. Petitioner's witness presented three comparable land sales indicating a range in price of \$9.28 to \$28.27 per square foot. Petitioner concluded to a value equal to the mean of the three sales or \$15.79 per square foot. Petitioner used cost data from *Marshall & Swift* for an office store in order to exclude bank fixtures that are included as personal property.

Petitioner presented an income approach to derive a value of \$920,400.00 for the subject property. Petitioner applied a rental rate of \$19.94 for the subject property based on BOMA rental rates for suburban commercial office locations with a 10% upward adjustment made to reflect the superior location. Petitioner applied a 5% deduction for vacancy, a 4% deduction for management fee and a 3% deduction for reserves for replacement. A capitalization rate of 8.0% was selected based on investment survey data.

Petitioner is requesting a 2008 actual value of \$920,400.00 for the subject property.

Respondent presented the following indicators of value:

Cost:	\$1,353,826.00
Market:	\$1,868,500.00
Income:	\$1,377,700.00

Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,353,826.00. Respondent analyzed five land sales showing a range in sales price of \$15.87 to \$20.86 per square foot. After adjustment, the land sales indicated a range of \$16.25 to \$19.00 per square foot. Respondent concluded to a land value of \$17.00 based on the median indicated by the five sales, which was supported by data from the extended base period.

In calculating the replacement cost of the subject, Respondent concluded that no developer's profit was required as the subject was being used as a branch bank facility as of the date of value and that its use as a special purpose property would likely continue. A deduction of 4% was applied for physical deterioration and a deduction of \$81,500.00 was made to reflect trade fixtures considered personal property.

Based on the market approach, Respondent presented an indicated value of \$1,868,500.00 for the subject property. Respondent presented six comparable sales ranging in sales price from \$226.00 to \$687.00 per square foot. Respondent included one sale of a bank facility along with five sales of retail properties. After qualitative adjustments were made, Respondent concluded to a value of \$350.00 per square foot for the subject.

Respondent's witness, Mr. Larry Shouse, testified that the mean land-to-building ratio for a bank is 10.94:1, based on a survey of 43 bank properties which showed a range from 2.67:1 to 19.04:1. The mean indicated for other retail properties is 4.67:1, with a range from 1.35:1 to 9.33:1 based on an analysis of 76 retail properties. Respondent concluded that with a 9.9:1 land-to-building ratio, the subject had excess land that could be used for expansion of the building for retail use.

Respondent calculated that 17,492 square feet of the subject site was excess, and added \$297,364.00 to the market approach based on the concluded land value of \$17.00 per square foot.

Respondent used the income approach to derive a value of \$1,377,711.00 for the subject property. Respondent applied a rental rate of \$20.00 per square foot based on four market leases ranging in triple net rental rates from \$16.50 to \$24.00 per square foot. A vacancy rate of 5% and expenses of 5% were deducted. The resulting net operating income (NOI) was capitalized at 7.5%. This rate was based upon calculated capitalization rates from Respondent's Comparable Sales 2, 4 and 6 and various investment surveys. Excess land value of \$297,364.00 was added within the income approach.

Respondent's witness testified there should have been an adjustment to the square footage shown in his income approach calculation from 4,489 to 4,288 square feet. The Board recalculates Respondent's income approach with this square footage correction, indicating a value of \$1,329,343.00.

Respondent assigned an actual value of \$1,238,330.00 to the subject property for tax year 2008.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2008 valuation of the subject property was incorrect. While the cost approach is given some weight, the Board finds the income approach to be the best reflection of value based on testimony of both parties. Petitioner placed great reliance on BOMA office data for rental rate and vacancy. The Board found Respondent's rental rate and capitalization rate to be more specific to the Douglas County market; therefore, the greatest reliance is given to Respondent's income approach.

Respondent contends that because there is a lack of sales and rental data for bank properties, data for retail properties must be applied and adjusted. Respondent applied a 6:1 land-to-building ratio to the subject, adjusting the values indicated in the market and income approaches to reflect the ability for a retail user to expand the property. Further, Respondent's analysis indicated that banks had land-to-building ratios as high as 19.04:1 with a mean of 10.94:1 and a median of 10.47:1. The subject has a land-to-building ratio of 9.9:1.

The Board finds that the reasonable future use of the subject is the current use as a branch bank facility. Respondent's valuation as a retail property with land for expansion is highly speculative. No evidence or testimony was presented to suggest a change from the current use. In *Board of Assessment Appeals v. Colorado Arlberg Club*, 762 P.2d 146, 153 (Colo. 1988), the Colorado Supreme Court held that "reasonable future use is relevant to a property's current market value for tax assessment purposes." The Court also held that "speculative future uses cannot be considered in determining present market values." *Id.* at 154. More importantly, the actual land-to-building ratio of the subject was below the median indicated for bank properties and well within the range shown. Deducting the adjustment for excess land and reducing the square footage to 4,186 as measured by Petitioner, the value indicated by the revised income approach is \$1,007,431.00.

PGI	4186	\$ 20.00	\$ 83,720
vacancy	5.0%		\$ (4,186)
EGI			\$ 79,534
Expenses	5.0%		\$ (3,977)
			\$ 75,557
OAR	7.5%		\$ 1,007,431
Plus excess land			\$ -
			\$ 1,007,431

The Board concludes that the 2008 actual value of the subject property should be reduced to \$1,007,431.00.

ORDER:

Respondent is ordered to reduce the 2008 actual value of the subject property to \$1,007,431.00.

The Douglas 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-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).

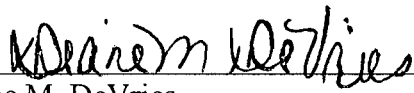
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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 25th day of November 2009.

BOARD OF ASSESSMENT APPEALS

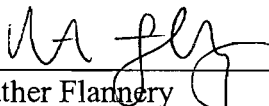


Diane M. DeVries



Sondra W. Mercier

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



Heather Flannery

