

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>AVAYA, INC.,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ADAMS COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 51698</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on March 1 and 2, 2010 Karen E. Hart and MaryKay Kelley presiding. Petitioner was represented by Thomas E. Downey, Jr., Esq. Respondent was represented by Jennifer M. Wascak, Esq. Petitioner is protesting the 2009 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**1200 West 120<sup>th</sup> Avenue, Westminster, Colorado  
(Adams County Schedule No. R0119612)**

The subject property is an owner-occupied 138.52 acre parcel with the following linked office/industrial improvements: manufacturing warehouse and support structures built in 1969 with open parking (1200 West 120<sup>th</sup> Avenue); research, development, and customer support buildings with two parking structures built in 1999 (1300 West 120<sup>th</sup> Avenue). The 1200 building, built for the manufacture of telephones and related components, is 15%-20% occupied by offices but predominantly vacant. The 1300 building is fully utilized.

The size of the 1200 building (1,197,123 square feet) was not contested. The parties relied on different sources for the 1300 structures: 423,113 square feet for offices and 516,550 square feet for parking structures per Petitioner (data provided by the facilities manager); and 485,825 square feet for offices and 563,536 square feet for parking structures per Respondent (data from the original architect).

The 1200 building is an older, predominantly vacant building with obsolescence, and contamination: various portions of the warehouse complex have asbestos and lead-based paint contamination. The parties stipulated to the costs of renovation-based remediation at \$7,151,500.00 and pre-demolition abatement at \$2,093,500.00.

Respondent assigned an actual value of \$63,000,000.00 for tax year 2009. Petitioner is requesting a value of \$40,000,000.00, which includes adjustments for excess vacancy and environmental issues.

Petitioner presented the following indicators of value, prior to adjustments for excess vacancy and environmental remediation:

Market:	\$54,290,000.00
Cost:	\$91,260,000.00
Income:	\$51,700,000.00

Based on the market approach, Petitioner presented an indicated value of \$54,290,000.00 for the subject property. The witness presented six single-tenant comparable sales, some with leases in place, some with similar uses, bracketing ages and sizes, and with a variety of adjustments including leases in place and the external obsolescence of the 1200 building. The witness concluded to values of \$10.00 and \$100.00 per square foot, for the 1200 and 1300 buildings respectively, with a blended value of \$33.50 per square foot.

The witness also presented a statistical analysis of nationwide base-period industrial sales with building areas of 500,000 to 5,000,000 square feet. It included 82 transactions and concluded to unit values of \$25.00 to \$30.00 per square foot, supporting the indicated comparable sale value of \$33.50 per square foot.

Based on the cost approach, Petitioner presented an indicated value of \$91,260,000.00. The witness adopted Adams County's land value of \$10,861,076.00 (\$1.80 per square foot) supported by four comparable land sales ranging in size from 77.67 acres to 130.00 acres and in sales price from \$1.26 to \$2.30 per square foot. Based on Marshall & Swift/Boeckh, the witness estimated replacement cost new of buildings and site improvements to be \$146,018,971.00. Physical depreciation of 61% was applied to the 1200 building and 9% to the 1300 building. Functional obsolescence of 10% reflected the oversized lobby in the 1300 building (incurable). The external obsolescence of 10% addressed the property's large size and diminished feasibility of its income generating capability.

Based on the income approach, Petitioner presented an indicated value of \$51,700,000.00. Referencing Ross Research Services (mid-year 2008 for the Denver Northwest area), the witness estimated a \$12.00 per square foot rental rate for the 1200 building's older, Class C office space, a \$3.00 per square foot rental rate for the 1200 building's warehouse space (\$5.25 median with adjustments for size and age/condition), and a \$20.00 per square foot rental rate for the 1300 building (Class A exterior and Class B interior). Sources for variable and fixed operating expenses were owner-provided, IREM (insurance data), and appraiser estimates. The net operating income

was capitalized at 11.9% (9% per Burbach Real Estate Investment Survey Summer 2008 plus a 2.9% tax load).

Petitioner's witness relied on the market approach with support from the income approach. The cost approach was given little weight because of the 1200 building's age and depreciation. After reconciling to a value of \$53,000,000.00, Petitioner's witness applied \$7,000,000.00 for the 1200 building's excess vacancy and \$6,000,000.00 for its environmental issues, concluding to a value of \$40,000,000.00.

Respondent presented the following indicators of value:

Market:	\$70,000,000.00
Cost:	\$77,600,000.00
Income:	n/a

Respondent's witness, without prior knowledge of environmental issues, presented recalculated approaches to value during testimony. In both market and cost approaches, the witness valued the following as independent entities: the 1200 building, the 1300 building on 44 acres, and the remaining 94.52 acres.

Regarding land value for the entire 138.52 acres (6,033,931 square feet), Respondent's witness concluded to \$2.50 per square foot (\$15,000,000.00 rounded) based on eight vacant land sales ranging from \$2.28 to \$3.58 per square foot, arrayed by sales date, land area, and price per square foot. The witness reconciled at the lower end of the range. In the recalculation process, 44 of these acres were attributed to the 1300 building (1,916,640 square feet at \$2.50 per square foot or \$4,790,000.00). Land value for the remaining 94.52 acres was valued at \$2.50 per square foot or \$10,293,228.00 minus environmental abatement (\$2,093,500.00) and physical demolition of the 1200 building (\$3,000,000.00). Respondent's witness concluded to a land value for the 94.52 acres of \$5,200,000.00.

For the 1200 building, Respondent's witness presented \$3,000,000.00 as the cost of physical demolition. Considering it near the end of its economic life, the witness concluded to a value of zero.

Based on the market approach, Respondent presented an indicated value of \$70,000,000.00.

For the 1300 building, Class A, Respondent's witness presented 17 downtown sales provided by CoStar with a median sales price of \$195.42 per square foot and 17 outlying sales with a median sales price of \$168.22 per square foot. Relying on the latter because of their greater similarity to the subject's location, the witness reconciled to \$165.00 per square foot for 462,140 square feet of rentable space and applied a 15% reduction for functional obsolescence (super-adequacy of components). He then concluded to a value by the market approach of \$70,000,000.00 as follows: the 1300 building on 44 acres at \$64,800,000.00; the 1200 building at \$0.00; \$5,200,000.00 for the remaining 94.52 acres after abatement and physical demolition of the 1200 building.

Based on the cost approach, Respondent presented an indicated value of \$77,600,000.00.

The witness presented a recalculated cost approach for the 1300 building as follows: \$122,900,000.00 reproduction cost new (original building permit figures trended to 2008), minus \$19,541,000.00 (15% functional obsolescence adjustment), plus \$6,201,540.00 (6% indirect costs) equals \$109,560,540.00 (cost new); minus \$41,973,738.00 (8.3% physical incurable obsolescence and 30% external obsolescence) equals \$67,586,802.00 (depreciated cost new); plus \$4,790,000.00 (44 acres attributed to the 1300 building) equals \$72,376,802.00 or \$72,400,000.00 rounded. Including the value for the remaining 94.52 acres after abatement and physical demolition of the 1200 building at \$5,200,000.00, the witness concluded to a value of \$77,600,000.00 by the cost approach.

Respondent did not consider the income approach to value. The 1300 building is currently a single tenant structure; the 1200 building is predominantly vacant and requires major renovation for tenant use.

Petitioner presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was incorrect.

The Board finds that the 1200 building, albeit with depreciation, predominant vacancy, and contamination, was present as of the assessment date, provided utility as office space and storage, and should be valued in its current use, not as demolished.

The Board has greater confidence in Petitioner's cost approach. Petitioner's source for square footage is more reliable than original building permit figures, which may have changed during the construction process. Respondent's application of reproduction cost to the 1300 building is not given any weight and is not preferable to use of replacement cost for a 1999 structure. However, the Board places minimal weight on the cost approach to value the subject property because of the 1200 building's age, obsolescence, and environmental issues.

Petitioner's market approach valued the subject property as a single entity and is considered more reliable. Respondent valued the 1300 building on 44 acres as one unit, the 1200 building as one unit, and the remaining 94.52 acres separately. The subject property was a single entity as of assessment date and should, in appraisal theory, be marketed as such. Value is not necessarily the sum of its parts.

The Board gives Petitioner's market approach the most weight with support from Petitioner's income approach.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$40,000,000.00.

**ORDER:**

Respondent is ordered to reduce the 2009 actual value of the subject property to \$40,000,000.00.

The Adams 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 6<sup>th</sup> day of May 2010.

**BOARD OF ASSESSMENT APPEALS**

Karen E Hart  
Karen E. Hart

MaryKay Kelley  
MaryKay Kelley

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

Heather Flannery  
Heather Flannery

