

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>FRED L. SPALLONE, INC,</p> <p>v.</p> <p>Respondent:</p> <p>BROOMFIELD COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52288</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on February 25, 2010, MaryKay Kelley and Lyle D. Hansen presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Tami Yellico, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**12995 Sheridan Boulevard, Broomfield, CO
Broomfield County Schedule No. R1117373**

The subject is a two-story masonry class C office building built in 2002, containing a total of 10,062 square feet of gross building area, with 9,500 square feet of net rentable area, situated on a 30,760 square foot site. The building is designed to accommodate multi-tenant office use.

Petitioner presented the following indicators of value:

Market:	Not used
Cost:	\$1,125,000.00
Income:	\$1,039,475.00

Based on the income approach, Petitioner presented an indicated value of \$1,039,475.00 for the subject property.

Petitioner presented no comparable sales.

Petitioner presented a cost approach to derive a market-adjusted cost value for the subject property of \$1,125,000.00.

Petitioner's appraiser presented no comparable land sales but indicated that he had reviewed 25 vacant land sales in Broomfield that indicated a range of \$5.42 to \$19.63 per square foot. Petitioner's appraiser included no information as to site zoning, site area, utilities available, or access. Petitioner's appraiser testified that the value of the land established by the Broomfield County Assessor was not challenged.

Petitioner's appraiser concluded a replacement cost of \$864,326.00; total accrued depreciation of \$34,573.00; depreciated value of improvements of \$829,753.00; and depreciated asphalt of \$18,500.00 for a concluded value indication by the cost approach of \$1,125,000.00.

Petitioner's appraiser presented an income approach to derive a value of \$842,000.00 for the subject property. Petitioner concluded gross income of \$142,810.00; a vacancy of 17%; expenses of \$55,619.00; and a net operating income of \$87,161.00. Petitioner applied a tax loaded capitalization rate of 10.35% (8% base rate plus an effective tax rate of 2.35%) to derive a value indication of \$842,000.00.

Petitioner is requesting a value of \$1,039,475.00 for the subject property, calculated at the hearing using an income approach based upon a triple-net lease. Petitioner agreed with Respondent's triple net income of \$114,000.00 and capitalization rate of 8%. However, Petitioner argued a vacancy and collection loss of 17% and total expenses of 10% for a net operating income of \$83,158.00.

Petitioner is requesting a 2009 actual value of \$1,039,475.00 for the subject property.

Respondent presented the following indicators of value:

Market:	\$1,288,500.00
Cost:	\$1,240,670.00
Income:	\$1,200,000.00

Respondent presented an indicated value of \$1,250,000.00 for the subject property.

Respondent's appraiser presented a market approach using two comparable sales ranging in sales price from \$1,425,000.00 to \$2,075,000.00 or \$125.41 to \$171.97 and in size from 11,363 to 12,066 square feet. After adjustments were made, the sales ranged from \$121.65 to \$149.61 per square foot.

Respondent's appraiser used a state-approved cost estimating service to derive a market-adjusted cost value for the subject property of \$1,240,670.00.

Respondent's appraiser presented no comparable land sales and concluded a land value of \$9.00 per square foot for the 30,760 square feet of site area for a total land value of \$276,890.00. Respondent's appraiser presented an improvement value of \$963,780.00.

Respondent's appraiser used the income approach to derive a value of \$1,205,550.00 for the subject property.

Respondent's appraiser concluded a triple-net rental rate of \$12.00 per square foot; applied the rental rate to a leasable area of 9,500 square feet to derive total revenue at \$114,000.00; applied a vacancy and collection loss rate of 10%; and applied miscellaneous expenses at 1.0%, management at 3.0%, and reserves for replacement at 2.0% resulting in total expenses of \$6,156.00. The concluded net operating income was \$96,444.00. Respondent's appraiser applied a capitalization rate of 8% to derive a value indication of \$1,205,550.00.

Respondent assigned an actual value of \$1,135,780.00 to the subject property for tax year 2009.

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

The Board agreed that the income approach more accurately reflects value for the subject property. Petitioner and Respondent agreed on the net rental rate of \$12.00 per square foot and on the capitalization rate of 8%. Petitioner disagreed with Respondent on the vacancy and collection loss rate and on owner-paid expenses.

Petitioner concluded that a vacancy rate of 17% would be more appropriate since that rate was more reflective of the actual vacancy rate of the subject in 2008. Respondent concluded a vacancy and collection loss rate of 10% as indicated by a vacancy study accomplished by the Broomfield Economic Development Corporation. That study included all A, B, and C office classes. Respondent also presented another office vacancy study accomplished by Ross Research Services, Respondent's Exhibit B. That study segregated office vacancy by office classes A, B, and C. The class C office vacancy for the northwest area of the Denver Metropolitan Area at mid-year 2008 was indicated at 15.81%. The Board placed greater reliability upon Respondent's Exhibit B and concluded a vacancy rate of 15.0%.

Petitioner and Respondent disagreed on owner-paid expenses. Petitioner concluded miscellaneous expenses at 2%, management fee at 5%, and reserves for replacement at 3% of effective gross income. Respondent concluded miscellaneous expenses at 1%, management fee at 3%, and reserves for replacement at 2% of effective gross income. The Board concluded that the subject property with a total of nine tenant spaces would require a management fee greater than Respondent's conclusion of 3%. The Board agreed with Petitioner and concluded management fee at 5% of effective gross income. The Board also agreed with Petitioner and concluded miscellaneous expenses at 2% and reserves for replacement at 3%.

The Board reconstructed the operating statement in the income approach as follows:

Revenue: 9,500 Sq. Ft. X \$12.00/Sq. Ft.	\$114,000
Less: Vacancy/Collection Loss: 15%	<u>(\$ 17,100)</u>
Effective Gross Income:	\$ 96,900
Owner-Paid Expenses:	
Miscellaneous: 2% of EGI: \$1,938	
Management Fee: 5% of EGI: 4,845	
Reserves/Replace: 3% of EGI: <u>2,907</u>	
Total Owner-Paid Expenses:	<u>(\$ 9,690)</u>
Net Operating Income:	\$87,210
Value Indication: 8% capitalization rate:	\$1,090,125

The Board concluded that the 2009 actual value of the subject property should be reduced to \$1,090,125.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$1,090,125.00.

The Broomfield 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).

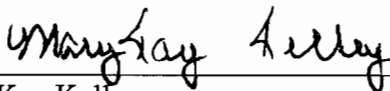
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

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.

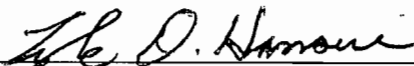
Section 39-8-108(2), C.R.S.

DATED and MAILED this 22nd day of April 2010.

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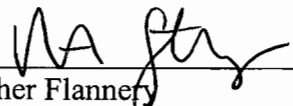


MaryKay Kelley



Lyle D. Hansen

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



Heather Flanner

