

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>GRANITE SOUTHLANDS TOWN CENTER, LLC,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52312 & 55887</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 5, 2011, James R. Meurer and Sondra W. Mercier presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the actual value of the subject property for tax years 2009 and 2010.

Dockets 52312 and 55887 were consolidated.

Subject property is described as follows:

**6290 S. Southlands Parkway
6295 S. Southlands Parkway
Arapahoe County Schedule No. 2071-19-3-03-001 and 2071-19-2-09-001**

This appeal includes two multi-tenant retail buildings. The buildings are located in the Southlands Town Center, which is a 1.7 million square foot outdoor lifestyle center.

The building located at 6290 S. Southlands Parkway is anchored by a 27,053-square foot Barnes & Noble store. There are five additional in-line tenants plus three vacant units as of the date of value. According to Petitioner's rent roll, the building includes a total of 59,512-rentable square feet on a 306,837-square foot site. Two additional pad sites are available on the site for future development.

The building located at 6295 S. Southlands Parkway is anchored by a 39,943-square foot Sports Authority store. There are six additional in-line tenants plus two vacant units for a total of 68,144-rentable square feet according to Petitioner’s rent roll. The building is situated on a 209,959-square foot site.

Petitioner is requesting an actual value of \$6,736,800.00 for 6290 S. Southlands and \$7,640,800.00 for 6295 S. Southlands for tax years 2009 and 2010. Respondent assigned a value of \$7,940,000.00 for 6290 S. Southlands and \$10,940,000.00 for 6295 S. Southlands for tax years 2009 and 2010.

Petitioner presented the following indicators of value:

	6290 S. Southlands	6295 S. Southlands
Cost:	\$11,224,600.00	\$10,852,700.00
Market:	\$8,926,800.00	\$10,221,600.00
Income:	\$6,736,800.00	\$7,640,800.00

Petitioner’s witness, Mr. Stanton E. Wagner, Paradigm Tax Group, testified that he had placed total reliance on the income approach in his valuation of the subject properties. Mr. Wagner testified that because the subject leases were entered into during the base period, he had relied on the actual lease rates for the leased portions of both buildings. The rental rate for the vacant space was set at \$26.00 per square foot based on the rates set for the other in-line units. Mr. Wagner deducted the actual income from the vacant units as vacancy for each building. He also deducted non-reimbursed expenses of \$2.00 per square foot and expenses of \$8.00 per square foot for the vacant units. An additional deduction of \$1.00 was applied for replacement reserves. Mr. Wagner applied a capitalization rate of 9% to the net operating income of each building, then deducted tenant finish equal to \$40.00 per square foot for the vacant space in each building.

Petitioner contends that Respondent understated the affect of vacancy in their valuation of the subject. Petitioner’s income approach was constructed under the assumption that the vacant space as of the date of value would remain vacant into perpetuity.

Respondent presented the following indicators of value:

	6290 S. Southlands	6295 S. Southlands
Cost:	\$13,900,000.00	\$13,800,000.00
Market:	\$11,380,000.00	\$13,170,000.00
Income:	\$11,920,000.00	\$12,360,000.00

Respondent’s witness, Mr. Marcus Scott, MAI of the Arapahoe County Assessor’s Office, testified that he had given consideration to the values indicated by all three approaches in his analysis of the subject buildings. Respondent used a state-approved cost estimating service to derive a market-adjusted cost value for each of the subject buildings. Respondent applied a value of \$14.00 per square foot for land value and relied on Marshall & Swift Commercial Estimator to establish

replacement cost new for the improvements. Mr. Scott reflected the vacant, unfinished space within his cost analysis.

Respondent presented five comparable sales ranging in sale price from \$3,650,000.00 to \$6,900,000.00 and in size from 13,258 to 15,765 square feet. The sales indicated a price range of \$272.12 to \$497.84 per square foot. Mr. Scott concluded to a value of \$200.00 per square foot for the subject buildings, then made a deduction for excess vacancy.

Respondent calculated excess vacancy by taking the actual vacancy and deducting the amount of vacant space at a stabilized occupancy, which Mr. Scott concluded to be 10% for the subject buildings. Mr. Scott determined the net operating income attributable to the excess vacancy, for an absorption period ranging from two to three years. He calculated leasing commissions at \$1.00 per square foot for a five year term and tenant finish allowance of \$40.00 per square foot. All of the lease-up costs were discounted at a rate of 10%.

Respondent's witness gave consideration to the actual rental rates for leased units in the subject buildings, with support from comparable rental data from similar centers. He deducted vacancy and collection loss of 10%, then deducted an additional 10% to reflect owner's expenses associated with management, general administrative, and reserves for replacement. Mr. Scott applied a capitalization rate of 7.75% to conclude to a stabilized value, then made a downward adjustment to reflect excess vacancy to conclude to a value using the income approach.

Respondent assigned a value of \$7,940,000.00 for 6290 S. Southlands and \$10,940,000.00 for 6295 S. Southlands for tax years 2009 and 2010.

After consideration of all three approaches to value, the Board finds that the income approach provides the best indication of value for an income producing property such as the subject. The Board was convinced that the subject had high vacancy as of the date of value and that the costs associated with tenant finish and lost revenue during the lease-up period should be reflected in value.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax years 2009 and 2010. Using the income approach, Respondent placed reliance on the actual rental rates negotiated for the subject during the base year, with support from comparable retail properties. Respondent applied a vacancy rate of 10%, slightly above that indicated by market analysis. Respondent's capitalization rate of 7.75% was well supported by investment surveys as well as abstraction from sales. Respondent's deduction of 10% for management, general administrative costs and reserves for replacement under a net lease rate was reasonable.

At the same time, the Board found that Respondent's deduction for tenant finish allowance and lost revenue for vacant space was inadequate. The Board was not convinced that only a portion of the vacant space, identified by Respondent as "excess vacancy" should be reflected; but, rather, all of the vacant space that had never been occupied should be included in the analysis. The Board calculates the adjustment for vacancy based on Petitioner's lost revenue for one year at a rental rate for in-line space of \$26.00 per square foot, lost expense reimbursement of \$8.00 per square foot and

tenant finish at \$40.00 per square foot. While this results in a significantly higher deduction, the recalculated value based on Respondent's presentation remains above the value assigned to the subject properties for tax years 2009 and 2010.

Petitioner presented insufficient probative evidence and testimony to prove that the actual value of the subject property was incorrect for tax years 2009 and 2010. Petitioner's methodology in the income approach assumes that the vacancy as of the date of value would remain into perpetuity. However, Petitioner provided insufficient evidence that there was a functional or economic reason that the vacant space would never be leased. Petitioner applies a deduction for the actual vacancy, resulting in vacancy rates of over 20% for each of the properties analyzed; yet, Petitioner provided insufficient market support for vacancy of above 20%. At the same time, if the Board were to be convinced that the space would never be leased, Petitioner's further deduction for tenant finish should not be made.

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).

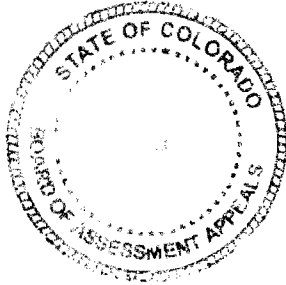
If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according 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 31st day of October, 2011.



BOARD OF ASSESSMENT APPEALS:

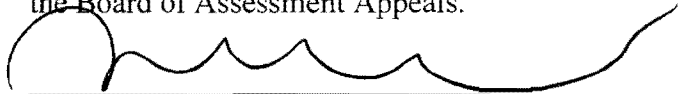


James R. Meurer



Sondra W. Mercier

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



Milla Crichton